Chroniques du manuscrit au Yémen

16 | 2013
Varia

Niẓām al-Yahūd (“The Statute of the Jews”)

Imām Yaḥyā’s writing to the Jews of Ṣanʿā’ from 1323/1905

Kerstin Hünefeld

OpenEdition Journals

Electronic version
URL: http://journals.openedition.org/cmy/2012
DOI: 10.4000/cmy.2012
ISSN: 2116-0813

Publisher
CEFAS

Electronic reference
Kerstin Hünefeld, « Niẓām al-Yahūd (“The Statute of the Jews”) », *Chroniques du manuscrit au Yémen* [Online], 16 | 2013, Online since 19 November 2013, connection on 28 November 2019. URL : http://journals.openedition.org/cmy/2012 ; DOI : 10.4000/cmy.2012

This text was automatically generated on 28 November 2019.

Chroniques du manuscrit au Yémen

Niẓām al-Yahūd (“The Statute of the Jews”)

Imām Yaḥyā’s writing to the Jews of Ṣanʿā’ from 1323/1905

Kerstin Hünefeld

Preface and background

1 The document presented in this article reflects an important aspect of the relationship between Imām Yaḥyā b. Muḥammad Ḥamīd al-Dīn (1869-1948) and the Jews of Yemen. It is not the only written proof of Imām Yaḥyā’s commitment to granting security to his Jewish subjects, but still the earliest and most elaborated one. It was hitherto never published and the document’s original version has never been discussed in research.[1] This is quite astonishing considering the fact that the mere existence of a “letter of protection” or “edict”, which is said to have been given to the Jews of Ṣanʿā’ by Imām Yaḥyā around the year 1905, is referred to in almost every study dealing with the Jews of Yemen under Imām Yaḥyā’s rule.[2]

2 Instead of searching for the original version of the document, addressing its absence, or questioning its (written) existence, many surveys rather settle for referring to one of the document’s transcriptions.[3] While doing so, most of the authors do not mention that the text they are referring to as Imām Yaḥyā’s “letter of protection” is not an original “edict” or officially sealed document, but at best a transcription of its copy (and not the original) made about 25 years after the original document’s first formulation.[4] In other cases, the “edict” referred to is not even a transcription reproducing its Arabic wording, but only a translated French citation from another source, which itself does not give any reference to its source.[5]

3 All the later reproductions of the text certainly go back to the document presented below. Nevertheless, parts of the transcriptions and citations of Imām Yaḥyā’s writing are ambiguous or even totally unclear from a linguistic point of view. This lack of clarity was also transferred to the (academic) text editions and translations and led to false or

doubtful conclusions. I find it therefore important to make the original document available to researchers, and to compare its text with the existing secondary transmissions of it. This might also reveal some new insights into the relationship between Imām Yaḥyā and his Jewish subjects and the Jews' living conditions, as well as into more general *ḏimma*-related issues. Following the document's facsimile below, I will present a critical edition of its original Arabic text and an English translation. Thereby, I will refer to the existing transcriptions and references of the text as well as to their translations, whenever they differ from the document's text or my translation of it. A profound analysis of the document's legal background, the historical background of its emergence as well as the social function of its formulation will form part of my dissertation.[6]

4 Before giving a brief overview of the document's different transcriptions, their editions and translations, I would like to introduce the document itself, which was preserved as Ms.Ar.120 in the manuscript collection of the National Library in Jerusalem. The description of the physical features of the document would be very useful, at least, its size, its media (paper). Those physical features can be added here or before the text edition. The document itself is not headed, but seems to have been titled by the library staff as *Niẓām al-Yahūd* ("The Statute of the Jews"). It was sealed in Ṣanʿā' by the personal office of Imām Yaḥyā Ḥamīd al-Dīn and dated 28 Rabīʿ al-Awwal 1323, which is equivalent to June 1905. The manuscript's handwriting is certainly not the personal handwriting of Imām Yaḥyā, but most probably belongs to one of his official scribes.[7] The red seal, however, is said to have been used only with the Imām's personal approval and presence while sealing. The document was most likely not copied for archival use,[8] but handed out directly and in its original version by the Imām's office to one or more representative(s) of the Jewish community of Ṣanʿā'. Though it addresses the Jewish community's obligations in general, the document is not directed to any office or individual. It rather jumps quite directly into mentioning the regulations applying to the Jews of Ṣanʿā', and in this regard could be characterised as a "contract" rather than a "letter". The protection guaranty does form an important part of the writing. Nevertheless, it does not exclusively constitute a "letter of protection", it also confirms the election of several new representatives of the Jewish community. In no case would I call the writing an "edict", as it does not seem to have been published or distributed to the public on the Imām's initiative.[9]

5 The document was, however, formulated some weeks after Imām Yaḥyā's soldiers had captured a (temporary) victory over the Ottoman troops and entered the capital for the first time.[10] The writing was most likely kept with members of the (Jewish) Ḥibšūš family in Ṣanʿā', and was brought with them when they emigrated from Yemen to mandatory Palestine.[11] It seems to have been stored furled, and it bears a short writing on its backside (which is not reproduced in this article) giving the name: Naṣr Ḥasan Sayyid al-Ǧaḥdarī,[12] who may have been one of the officials involved.[13] The original document was donated to the National Library in Jerusalem in 1946 by Tov (Ṭūb) b. Sulaymān Ḥibšūš,[14] a ṣanʿānī Jew, who had worked as an emissary for the family's trade business in British Aden and immigrated to Palestine in 1929. I assume that Tov Ḥibšūš did not bring the document himself, but that it was brought by other family members shortly before its donation to the library in 1947.[15]

6 The first one who seems to have copied the document, and to whom most probably all the later copies go back, was Rabbi Sulaymān b. Yaḥyā Ḥibšūš (d. around 1922). He was a

trader and known Jewish scholar from Ṣanʿā' and the father of Tov Ḥibšūš, who later donated the manuscript to the library.[16] In some sort of a diary, written in Hebrew language and script around the year 1905, Sulaymān Ḥibšūš recorded his personal impressions of the siege of Ṣanʿā' and the drought, as well as the conflict between Imām Yaḥyā and the Ottoman government in Yemen. In this diary, Ḥibšūš included a transcription of the writing handed out by Imām Yaḥyā's office to the Jews of Ṣanʿā' exactly during this time and translated it into Hebrew. The Arabic text itself was transcribed with Hebrew characters, the Hebrew translation precedes the transcription of the Arabic text.[17] Sulaymān Ḥibšūš's diary seems not to have been concluded, and stops with the return of the Ottoman government to the Yemeni capital in autumn 1905. The original draft was–so it seems–not preserved, or has not yet been discovered. However, Ḥ ibšūš's diary became known through its handwritten copies, which are entitled *Eškolot Merorot* ("Bitter grapes"), some of which were preserved in private and official archives in Jerusalem. Though Ḥibšūš's *Eškolot Merorot* is only known from its later transcriptions, there is so far no reason to doubt that also in his own handwritten version Ḥibšūš did transcribe (the later called) Ms.Ar.120 with Hebrew characters. It was and still is common among Jews living in Yemen to write Arabic language in the Hebrew script when the writing is not addressed to Muslim officials.[18] According to my view, there is no doubt that Sulaymān Ḥibšūš had seen and copied from the original document (Ms.Ar.120). Not only was the document donated to the National Library by Sulaymān Ḥibšūš's son Tov, but Ḥibšūš's Hebrew translation of the document itself also seems to confirm this assumption. Some passages that became blurry in the Judaeo-Arabic transcription of the Arabic text were preserved quite well in Ḥibšūš's Hebrew translation, which is often much closer to the text of Ms.Ar.120 than the transcriptions of the Arabic text. As far as I know, Ḥibšūš's *Eškolot Merorot* was always copied as a whole record. Aside from one exception (discussed below), there does not seem to be any copy of Ms.Ar.120 that was preserved independently from Ḥibšūš's diary. Experts in Yemen to whom I showed an Arabic transcription of Ms.Ar.120 were excited about the existence of such a record. Though the notion of Imām Yaḥyā having indeed performed his religious-legal duty of assuring security to his Jewish subjects is widespread in Yemen, none of the archival experts on documents and manuscripts stored in Yemen ever saw or heard of an officially written record of Imām Yaḥyā's protection guaranty.[19]

7 All the hitherto known preserved handwritten copies of Ḥibšūš's *Eškolot Merorot* were made in Yemen and are preserved in Israeli archives. Two of these copies, both made by Šālom b. Yaḥyā Qoraḥ in 1930 and 1931, were edited in 1936/1937 by Shlomo Dov Goitein (1900-1985),[20] one of the first scholars who worked on the Jews of the Islamicate World.[21] Goitein's text edition is written in Hebrew. He also adopted the Judaeo-Arabic appearance of the transcribed "letter of protection" as it was transmitted in the two handwritten templates of Ḥibšūš's *Eškolot Merorot* that Goitein used for his edition. Accompanying the text edition, Goitein gives a brief introduction into the historical background and also addresses the transcribed document's text itself. Though he mentions some passages that were obscure to him, Goitein does not address any question concerning the whereabouts of the original document or problems related to his editing template being a transcription only. It is most likely that Goitein neither heard about nor saw the original document Ms.Ar.120, which–I assume–was still in Yemen when he conducted his Yemen related research. Goitein's edition of Ḥibšūš's diary and the included "letter of protection" is profound and raises interesting ideas.[22] Nevertheless, there are aspects he did not question at all or could not solve without having the original document. Still, his

edition of *Eškolot Merorot* is the only one ever made, and until now research on Imām Yaḥyā's "letter of protection" has not reached far beyond Goitein's findings from 1936/37.

8 The protection letter's text of Goitein's edition (not Ḥibšūš's whole diary) was translated into English by Norman Stillman in 1991.[23] It is part of his source collection on Jews of the Arab World and is not imbedded into any article dealing with the Jews of Yemen in particular. Stillman seems to have translated directly from the Judeo-Arabic transcription in Goitein's edition and does not refer to Ḥibšūš's Hebrew translation. Though the Hebrew of Ḥibšūš's translation is extremely archaic and very difficult to understand, it helps to detect the smaller steps of the text's transformation from the wording in Ms.Ar.120 to the text of the later transcriptions.[24]

9 The second text edition of Imām Yaḥyā's "letter of protection" is non-academic and was published in 1985 by Rabbi Shalom b. Saʿadya Gamliel, or as he was called in Yemen, Sālim b. Saʿīd al-Ǧamal (1907-2001). He was born in Ṣanʿā' and acted as an intermediary between the Jewish community and Imām Yaḥyā from 1927 until his emigration to mandatory Palestine in 1944. Gamliel was not an academic researcher, but had a rather personal interest in writing on his experiences as a point man between parts of the Jewish community and Imām Yaḥyā.[25] Nevertheless, I would call his presentation of the protection letter's text a "text edition". Although it bears a couple of problematic issues, his edition presents a handwritten document, a printed transcription of the text as well as a translation to Hebrew. He also included footnotes about the transcription, where he explains certain Arabic expressions and provides some background information. Just as Goitein's edition, Gamliel's is also cited as a reference to Imām Yaḥyā's "letter of protection" in research literature.[26] Gamliel, however, did not copy or edit the whole diary of Sulaymān Ḥibšūš but only the transcription of the so-called "letter of protection".

10 Gamliel's copy of the document's text is in Arabic script and language and was included in his document collection as a facsimile. This seems utterly unordinary, as it is almost certain that Gamliel copied from a Judeo-Arabic version of the text, referring to Ḥibšūš's *Eškolot Merorot* himself.[27] The page numbering given by Gamliel, however, does not fit Goitein's edition of Ḥibšūš's diary. There is also a significant text addition in the text edited by Gamliel which is missing in Goitein's text, which I assume was made by the copyist of Gamliel's edition's template and not by him.[28] I therefore assume that Gamliel refers to yet another copy of Ḥibšūš's diary than the two that were edited by Goitein.

11 Aside from these disagreements, the wording of the protection letter's transcriptions in Gamliel's and Goitein's editions is very similar. This includes spelling mistakes and deviations between both of their texts and Ms.Ar.120. I therefore assume that the templates for Goitein's and Gamliel's editions belong to the same "stage of text transmission", i.e. that they were all copied from the same template, or at least are comparably far from (and close to) the original text, and resulted from a comparable number of transcription processes. If this were the case, all of the templates used as a base for Goitein's and Gamliel's editions would have been copied in Ṣanʿā' at the beginning of the 1930ies. Due to the aforementioned text addition in Gamliel's edition, I further assume that his template was copied by somebody other than Šālom b. Yaḥyā Qoraḥ, who had copied Goitein's template. In addition to the fact that Gamliel himself refers to Ḥibšūš's diary, Gamliel's Arabic transcription itself also shows linguistic characteristics that point to the template's Judaeo-Arabic origin, as for instance the omission of long vowels or the exchange of certain letters with others.[29] With regard to

the entire linguistic style of Gamliel's transcription, this text is very unlikely to have been copied from a grammatically and orthographically correct document written in Arabic language and script, as would be the case for Ms.Ar.120.[30]

12 Gamliel does not reveal who copied the text, which he presents as "document 18" in his document collection in facsimile. Although he later refers to Ḥibšūš's diary, Gamliel does not clearly mention the fact that he is not presenting an original document but a transcription. Rather, he introduces the facsimile with the words "as follows, the document and its translation" (*le-halan ha-teʿuda ve-targuma*),[31] and then presents it in the same manner he does the facsimiles of original documents from Yemen: adding a commented transcription of the handwritten Arabic text into Hebrew printed characters and translating it into Hebrew. This presentation might, on first view, lead to the assumption that Gamliel is actually presenting the original "letter of protection" written by Imām Yaḥyā's office, as it is indeed assumed by some academic researchers.[32] Whether this was intended by Gamliel or not cannot be answered. It is quite certain, however, that Gamliel copied the text himself. This becomes clear from the handwriting, which I argue, is certainly to be identified as that of Sālim b. Saʿīd al-Ǧamal himself. His handwriting is recorded as such in various facsimiles in his document collection, some of which are officially sealed or signed by Imām Yaḥyā or members of his government and are certainly to be considered as genuine. It is uncertain when Gamliel prepared his Arabic written copy of Imām Yaḥyā's letter. Whether he made it when he was still living in Yemen (until 1944), close to the publication of his document collection (1985), or in between.[33] Concerning Gamliel's Hebrew translation of the transcribed Arabic text, he does not seem to have been influenced linguistically by Ḥibšūš's Hebrew translation. Gamliel's translation is closer to the Arabic text version transmitted by himself and to the one edited by Goitein than it is to Ḥibšūš's Hebrew translation or to Ms. Ar. 120.

13 A German translation of the protection letter–as it was transmitted in Gamliel's edition–was published by Aviva Klein-Franke in 1997. She presents Gamliel's self-made handwritten Arabic transcription as facsimile and refers to it as "Dokument Nr. 4".[34] Though referencing Gamliel as a source, she raises no questions whatsoever regarding Gamliel's transcription, and refers to it as if it was the original document. Klein-Franke also does not comment on her translation, which sometimes is quite far from her source.

14 The document presented by Gamliel as the "letter of protection" was also published by Kāmīlīyā Abū Ǧabal in 1999.[35] She presented it in facsimile, as number two of the appendix of her book on the Jews of Yemen, which was published in Syria. The facsimile is titled *nuṣ bayān al-Imām Yaḥyā lī'l-yahūd ʿām 1905* ("The text of Imām Yaḥyā's statement [also "declaration", "manifestation"] to the Jews, 1905").[36] The same facsimile is included in a hitherto unpublished Master thesis from the University of Ṣanʿā' written by Riyāḍ Muḥammad Aḥmad al-Safwānī on the Jews of Yemen.[37] Al-Safwānī does not refer to Gamliel but to Kāmīlīyā Abū Ǧabal. Based on the transcription's linguistic appearance, he is rather critical about its supposed Imamic origin. Gamliel's handwritten Arabic transcription of Imām Yaḥyā's so-called "letter of protection" is until now the only one cited in research literature written in Arabic.

15 In addition to these two text editions based on Judaeo-Arabic transcriptions of Hibšūš's diary, there seems to be yet a third text transmission, which was preserved by Yomtob Sémach.[38] He was sent to Yemen in 1910 on behalf of the *Alliance Israélite Universelle* in order to investigate the possibility of opening an *AIU* school in Ṣanʿā'.[39] Sémach recorded his impressions in some sort of travel diary, written in French. In his entry from 25th

February 1910 he refers to the events from 1905, when Ṣanʿā' was besieged by Imām Yaḥyā's troops and its inhabitants were suffering from drought. He then relates to the Imām's (our his soldiers') entry into the capital and then comes to a certain "edict" (*édit écrit*) that Imām Yaḥyā is said to have composed or handed out personally (*de sa propre main*) to the Jews of Ṣanʿā', who are said to have come to pay their homage to the new ruler.[40] In the following, Sémach presents a French translation of what he calls the "edict". Though he does not reveal his exact source nor any person's name who may have provided the text to him, the cited text certainly goes back–in some way–to Ms.Ar.120. Sémach does not mention any seal, but starts directly from the *basmala*. He then gives the text of Imām Yaḥyā's office's writing and ends with the mention of the last commandment for the Jews (at the beginning of line 23 of Ms.Ar.120). He then continues by mentioning the election of Hārūn al-Kayhūn as a community representative, but does not carry on citing the entire text as it was preserved in the transcriptions as well as in Ms.Ar.120. The major formal difference between Sémach's citation and all the other versions of the text (including the original Ms.Ar.120) is that he numbered the bans and rules that ought to apply to the Jews of Ṣanʿā' and constitute only *one* part of the actual writing.[41] This of course stresses the importance of the bans and rules and makes them appear more central than they seem to be when taking a look at Ms.Ar.120.

16 Sémach does not cite a single source of information used to complement his personal impressions from his travel to Yemen. Being the *AUC* emissary, however, it can be assumed that Sémach met some representatives of the Jewish community who might have made him acquainted with the writing. However, it remains uncertain whether Sémach copied from a written template, or if for instance somebody dictated him the text. He may have seen the original document or a transcription of it. It is also not impossible that he took a transcription with him from Yemen or made one on his own. He could also have met Sulaymān Ḥibšūš. who might have shown him his diary. From the linguistic point of view, Sémach's French translation preserved the sense of some issues that are inherent to Ms.Ar.120 and which became obscured by repeated transcriptions of the text.[42] This makes sense, as he was in Ṣanʿā' only five years after the writing's formulation and most likely met people who were involved in its handing over to the Jewish community. It is uncertain, however, if Yomtob Sémach knew Arabic at all, and if so, how well he knew it.[43] Regarding one certain passage of his translation,[44] which does not reflect the meaning in Ms.Ar.120 but rather the one in Ḥibšūš's Hebrew translation (and is totally obscure in the later transcriptions), I would argue that Sémach translated from Ḥibšūš's Hebrew translation. This would also suggest that Ḥibšūš's Hebrew translation did not preserve the exact meaning of this passage in Ms.Ar.120 from the very beginning, which would not be too astonishing as the passage is indeed confusing and Ḥibšūš might have been content with giving its rough meaning for his diary record.

17 Sémach's citation of the Imām's office's writing to the Jews of Ṣanʿā' was re-cited by Erich Brauer in 1934.[45] Though he writes in German, Brauer gives the citation in French. However, he only recalls the fourteen bans and rules numbered by Sémach and does not refer to the other parts of the writing that were also cited by Sémach. Brauer does not address any question concerning the original document's whereabouts either. Sémach's travel diary, however, is given as a reference by many researchers when referring to the "letter of protection".[46] Sémach's account of the protection letter, or contract, was translated into English by Tudor Parfitt and published in his book *The road to Redemption* in 1996.[47] He translated Sémach's entire citation of the "édit écrit", but left out one of the

regulations (nr. 10). He also gives a wrong date (1910) for Imām Yaḥyā's entry to Ṣanʿāʾ. Parfitt might have assumed that Sémach exclusively wrote about events that he witnessed during his travel to Yemen. This, however, would not correspond to Yemeni historiography and is also not suggested by Sémach himself, who clearly states that he is referring to events that took place about five years before his stay.[48] Through his whole research Parfitt is very assertive, and in the course of this does not raise questions concerning the "letter of protection" either. Another English translation is presented by Dana Adams Schmidt, published in 1968.[49] The author does not give any references to sources, but the citation imbedded into the chapter on the "Jewish Kingdom and Zeidi Imams" clearly relates back to Sémach. As in Brauer, also here only the part with the numbered regulations is cited. The dating of 1906 is wrong.[50]

18 All the above mentioned transcriptions, references and translations are considered in the critical edition of the text. I studied the text of Ms.Ar.120 as well as Gamliel's Arabic transcription together with a private teacher in Yemen, Muḥammad ʿAbd al-Salām Manṣūr, who is an expert on the Arabic language and Islamic jurisprudence. Before eventually presenting Ms.Ar.120 with its critical edition and translation, one transcriptional phenomenon remains to be mentioned, which I noticed when comparing all the text versions: there are two qualitatively different kinds of text variations between Ms.Ar.120 and the transcriptions. Sometimes, words were replaced by other words that look alike in both the Arabic and Hebrew scripts, such as for instance *fatra* became *fiqh*.[51] In such cases the meaning was altered or became incomprehensible. Then there are other text variations, where words were exchanged by other words meaning almost the same but not looking alike, such as *ḏakr* becoming *raǧul*. I do not know if this phenomenon is to be named by a certain technical term used in manuscript copying related research. However, this observation sheds light on the copyist methods. Concerning the kind of alterations they made, it seems unlikely that they consciously manipulated the text in order to change its content or the writing's impact on existing practices. It rather seems that scriptural accurateness and closeness to the template was not as important to them as one might think, and that the copyists freely modified the text at will. Goitein also mentions a copyist note in a manuscript he saw for his edition, complaining about the many mistakes that occurred in the *eškolot merorot* version he was copying from, adding that he corrected some of the gaps and errors.[52]

Facsimile Ms.Ar.120

Facsimile Ms.Ar.120[53]

Text edition Ms.Ar.120[54]

	بسم الله الرحمن الرحيم خاطم الامام يحيى: امير المومنين الكتوكل على الله رب العالمين
1	[56]، في هذا وضعاً يَجب انْ يَلتَزِمُهُ مَعشر يهود[55]وبعدُ فإنَّ
	شُرِط عليهم اَلَّا يخالفوه. يُذكَّرهم هذا[57]كما أُمِروا به وبملازمته وكما
	ما ابلته *السِنون والاَعْوام، ويُجَّدَد من الأمرِ ما ابلتَهُ إمرة
	كل إمام[59]* التي دُوِفعَ فيها[58]الاروام وما كان قبلِها من القَترة
5	له بما يَجب مِن الاحكام وهو أنَّ هولاء[60]وتأَمَّرُ معها مَن لا خبرةَ
	وهي[63] بالغٍ مقاتلٍ[62] الجزية مِن كل ذكرٍ[61]اليهود مُأَمنون على آدَا
	قُدِّرت باربعة ريال الا ربع وعلى المتوسط[64]على الغني منعم ثمانية واربعون قفلة
	[65]اربع وعشرون قفلة قُدِّرت بريالين الا ثُمن وعلى الفقير إثنى عشر قفلة قُدِّرت
	بريال يَعجز نصف الثُمن. حُقنت بهذه دَماهم وادخلتهم الذمة.
10	، وهي [الجزية] على كل واحدٍ قبل تمام الحول يُسلِّمها[67] عنها[66]فليس لهم أنْ يَتَمنَّعوا

	من عند الله مُصرَّحةٌ في[69] مَن أمرناه بقبضها منهم. شريعةٌ نازلةٌ[68]الى
	بلغ قيمته النصاب الشرعي[71] في كلما[70]كتاب الله. وعليهم في مُتَّجراتهم
	كل حول، وليس عليهم فيما دون النصاب ولا في[72]نصف العُشر في راسِ
	شي \ولا فيما لم ينتقل مزيداً فصاعداً*/ فعليهم الوفا بالجزية المذكورة ونصف العشر[74] *غير المتجرات[73]شي
15	على مسلم. ولا يرفعوا بيوتهم[76]. وليس لهم ان يتطاولوا[75]المذكور نت [انتهى]
	على بيوت المسلمين، ولا يزاحموهم في طرقاتهم، ولا يردوا مواردهم.،
	[78] دين الاسلام، ولا يَسبّوا نبياً من الانبيا، ولايُفتنوا[77]ولا يُعيَّبوا
	دينه، ولا يركبوا على الأُكُف إلا عرضاً، ولا يغمزوا ولا[79]مسلماً عن
	توراتهم إلا في كنايسهم، ولا[80]يدلّوا على عَوْرة مسلمٍ، ولا يُظهَروا
20	، ولا يرفعوا اصوات البوقات[81]يرفعوا اصواتهم لقراتهم
	المعاملات[84] عن[83] الخفي بها. وهم ممنوعون[82]بل يكفيهم الضرب
	المسلم[87] السماوية. وعليهم تعظيم[86] التي تستجلب المعاطب[85]الربوية
	الكيهون[92] بن سالم[91] هرون[90] يهود صنعا الذمي[89]. وقد اختار[88]وتوقيره
	[right, upside down]
1	[93]والذمي
	القافح،[94]يحيى سليمان
	[96] يحيى اسحاق، والذمي[95]والذمي
	الابيض يصلّحون[97]يحيى سالم
5	ويجرون بينهم[98]فاسدهم
	احكام شريعتهم. ومعشر
	بطاعتهم[100] مامورون[99]يهود
	[101]وامثال امرهم. وعلى هولا
	بهم في غير طريقة[102]ان يَمشوا
10	[104] شيا[103]الجَوْر، وأن لا يخالفوا
	من شريعتهم، ولا يباعدواها
	حتى لا[105]عليهم بالاطماع
	الضعيف منهم[106]ينتصف

من القوي، ولا يُمنَع المطالب	
منهم حكم شريعة محمد صلى الله عليه	15
وقد نصبنا[107]وآله وسلم.	
[109] عاقلاً الذمي[108]على يهود صنعا	
بما امرناه[110]يحيى دنوخ يَأتمر	
أمره مَن أمّرناه على[111]او	
[112]صنعا. ويرعَا لِيهود	20
ما يجب أنْ يرعَا. ويُنَّزِلهم	
مِن[114] ويَمنَعْهُم[113]في منازلهم،	
[115]كل ما يُمنَعُون منه. فَلِيُعتَمد	
[116]هذا ويَجري	
حُكمُه على	25
جميع	
[117]مَن تَحت ذمة رسول الله	
عليه وآله وسلم[118]صلى ا ه	
[120]. مَن تحت وطاتنا[119]مِن	30
ربيع[122] شهر[121]حُرِّر ٢٨	
[123]الاول	
[125]١٣٢٣ [124]سنة	
[126]انتهى	

Translation of Ms.Ar.120[127]

19 In the name of God, the Merciful, the Compassionate [Red Seal of Imām Yaḥyā Ḥamīd al-Dīn: Commander of the faithful, who trusts in God][128]

20 (1) Referring to this writing, the community of the Jews has to maintain [the rules written in] it, (2) just as they were ordered to maintain it, and as it was imposed on them as a condition which they shall not violate.[129] It [the writing] shall remind them (3) of what the years have made lapse,[130] and renew the order that the (4) Ottoman authority let degenerate,[131] and that prevailed before the period [of the Ottoman occupation], during

which every Imām was repelled (5) and those [people] were ruling who do not know which rules are obligatory.[132]

21 These [rules say] that the (6) Jews are guaranteed security (*muʿāminūn*)[133] through payment of the *ǧizya* by every mature[134] male who has fighting ability.[135] It [the *ǧizya*] is forty-eight *qafla*[136] [silver] from the rich (among them), which is equivalent to four *riyāl* less a quarter [3 ¾ *riyāl*]. [People belonging to] the average [tax class] (8) have to pay twenty four *qafla*, which is equivalent to two *riyāl* less one eighth [1 7/8 *riyāl*]. The poor have to pay twelve *qafla*, which is equivalent to (9) one *riyāl* less half an eighth [15/16 of a *riyāl*].[137] Through this [payment] their blood is spared and it brings them into the covenant of protection (*ḏimma*).[138]

22 (10) They shall not refuse it [the *ǧizya* payment], and it is incumbent upon everyone to pay it prior to the year's end (11) to the one whom we entrusted to collect it from them. [This] is the law that came down from God and was clearly revealed in the (12) book of God.[139] [Further] they have [to pay taxes] on their commercial transactions concerning everything reaching the legal minimum amount of property liable for tax payment (*niṣāb*).[140] (13) [This tax is] half a tithe [5 per cent][141] at the beginning of each year. For whatever does not reach the *niṣāb* they do not have [to pay] anything.[142] Neither do they have to pay (14) anything for non-trade income and belongings, nor for immovables, be they of largest extent and beyond that.[143]

23 The aforementioned *ǧizya* payment and the (15) said half tithe are incumbent upon them. [144] end. (*intahā'*)

24 They [the Jews] shall not attack or get fresh with a Muslim,[145] and not raise their houses (16) over the houses of the Muslims. They [shall] neither hustle them on their ways, or compete with them,[146] and not come to their [the Muslim's watering?] places.[147] (17) They [shall] neither accuse the Islamic religion of any fault or vice,[148] nor insult any of the prophets,[149] nor seduce a (18) Muslim to turn away from his religion.[150] They [shall] not ride on saddles unless [they sit] sideward,[151] and [must] not hint nor (19) point to the weaknesses and imperfections of a Muslim.[152] They [shall] not show their Torah scrolls, but inside their synagogues,[153] and not (20) raise their voices for the(ir) recitation [of their holy scriptures]. Neither [must] they raise the sounds of the *shofar*[154] (21), it is enough to blow it slightly. They are forbidden [to engage in] interest (22) business that draws on the heavenly destruction.[155] They shall extol the Muslims (23) and honour them. [156]

25 The Jews of Ṣanʿā' already elected the protected (ḏimmī)[157] Harūn b. Sālim al-Kayhūn[158],

1. line upside down

26 the ḏimmī (2) Yaḥyā Sulaymān al-Qāfiḥ[159], (3) the ḏimmī Yaḥyā Isḥāq[160] and the ḏimmī (4) Yaḥyā Sālim al-Abyaḍ[161] in order to improve (5) their imperfection, and to implement among them (6) the jurisdiction of their [own, religiously legitimated] law.

27 The community of the (7) Jews is charged to obey them [the elected community representatives] and (8) to respond to their orders. Those [Jews who were elected] shall (9) guide them in a just way,[162] (10) and [watch] that they do not conflict with anything (11) of their law,[163] and do not distance it from themselves (12) out of greed or ambition, [164] so that (13) the weak among them shall not demand justice (14) from the strong.[165] Whoever (15) (among them) demands jurisdiction according to the law of Muḥammad– may God bless him (16) and his family and grant them salvation[166]–shall not be prohibited from it.[167]

28 We[168] already have appointed (17) as a headman (ʿāqil)[169] over the Jews of Ṣanʿā' (18) the ḏimmī[170] Yaḥyā DanūḤ[171]. He shall carry out the orders that we have ordered him (19) or that the one has ordered whom we have put in command over (20) Ṣanʿā'.[172] He shall make the Jews (21) observe what they have to observe,[173] and make them descend (22) to their places.[174] [He shall also] hold them back (23) from everything they are prohibited from.

29 This [writing][175] shall be used as a basis, (24-25) and its regulation[s] apply to (26) everybody (27) who is under the protection (ḏimma) of God's messenger[176]–(28) may God bless him (29) and his family and grant them salvation[177]–(30) among those who [live permanently] under our power (waṭ'ātinā).[178]

30 (31) [This was] written down on the 28th of the month rabīʿ (32) al-awwal (33) of the year 1323 [= 2. June 1905][179] end.

BIBLIOGRAPHY

Abū Ǧabal, Kāmīlīyā, *Yahūd al-Yaman: Dirāsa siyāsīya wa-iqtiṣādīwa-iǧtimāʿīya munḏu nihāyat al-qarn al-tāsiʿ ʿašar wa-Ḫatā mintasaf al-qarn al-ʿišrīn*, Damascus, 1999.

Anzi, Menashe, "Hašpaʿat ha-temurot ha-mediniot ʿal yehudei Ṣanʿa berešit ha-meʾah ha-ʿesrim", in *Mi-tuv Yosef: Yosef Tobi Jubilee Volume, Part two: The Jews of Yemen: History and Culture*, ed. A. Oettinger and D. Bar-Maoz, Haifa (2011) p. 95-124.

Ibid., *Temurot be-qihila ha-yehudit be-Ṣanʿā': hebetim politiyim ve-ḥavratiyim ve-hašpaʿatam ʿal peruṣ ha-maḥloket bein ha-"dardaʿim" ve-ha"ʿiqšim"*, Unpublished Master Thesis at the Hebrew University Jerusalem, 2003.

Ari, Ariel, *Trust Networks, Migration, and Ethno-National Identity: Jewish Migration from Yemen to Palestine in the late Nineteenth and Twentieth Centuries* (Columbia University 2009). ProQuest Dissertations and Theses (http://search.proquest.com)

Ibid.,

"A Reconsideration of Imam Yahya's Attitude Toward Forced Conversion of Jewish Orphans in Yemen" in Shofar: An Interdisciplinary Journal of Jewish Studies,Volume 29, Number 1, Fall 2010, p. 95-111.

Barakāt, Aḥmad Qāyid, "Al-nuqad fi'l-yaman", *Al-mawsūʿa al-yamanīya*, vol. IV, p. 3027-3042.

Blau, Joshua, *The Emergence and Linguistic background of Judaeo-Arabic: A Study of the Origins of Middle Arabic*, Jerusalem, 1981.

Ibid.,*A Grammar of Medieval Judaeo-Arabic*, Jerusalem, 1961.[in Hebrew]

Brauer, Erich, *Die Ethnologie der jemenitischen Juden*, Heidelberg, 1934.

Gaimani, Aharon, "Rabbi Yihye Yitzhak Halevi and his Relations with Imam Yahya", in *Middle Eastern Studies* 46, No. 2 (2010), p. 235-250.

Gamliel, Shalom b. Saʿadya,*The Jews and the King in the Yemen,*vol. I, Jerusalem, 1986.[in Hebrew]

Goitein, Shlomo Dov,*The Yemenites: History, Communal Organization, Spiritual Life* , Jerusalem, 5743/1983.[in Hebrew]

Ibid., “Sefer eškolot merorot” in*The Yemenites: History, Communal Organization, Spiritual Life* , ed. S.D. Goitein, Jerusalem, 1932, p. 171-196.[in Hebrew]

Ibid., “Mi-gnizei beit ha-sfarim: Kitāb ḏimmat al-nabī, sefer ḥasut la-yehudim ha-meyuḥas le-Muḥammad”, *Kirjat Sepher: Quarterly Bibliographical Review of the Jewish National and University Library in Jerusalem* 9 (1931-33), p. 507-521.

Haykel, Bernard, *Revival and Reform: The Legacy of Muḥammad al-Shawkānī*, Cambridge, 2003.

Habshūsh, Hayīm, *Yémen* [Texte imprimé] : récit / Hayîm Habshûsh ; trad. de l'arabe yéménite et présenté par Samia Naïm-Sanbar, Arles, Actes Sud, 1995.

Habshush, Hayyim, *Joseph Halevy’s Journey in Yemen as related by his Companion Hayyim Habshush*, ed. S.D. Goitein, Tel Aviv, 1939. [in Hebrew]

Ḥibšūš, Sulaymān,*Sefer eškolot merorot*see Goitein, “Sefer eškolot”.

Hodgon, Marshall G.S., *The Venture of Islam*, Chicago, 3 vols., 1974.

Hünefeld, Kerstin, *Imām Yaḥyā Ḥamīd ad-Dīn und die Juden in Ṣanʿā (1904-1948): Die Dimension von Schutz (Dhimma) in den Dokumenten des Rabbi Sālim b. Saʿīd al-Ǧamal*, Berlin, 2010.

Ibn Miftaḥ, Abū’-Ḥasan ʿAbdallāh and al-Imām Aḥmad b. Yaḥyā al-Murtaḍā, *Šarḥ al-Azhār (al-Kitāb al-Muntazaʿ al-muṯtār min al-ġayth al-midrār al-mufattiḥ li-kamāʾim fī fiqh al-aʾimma al-aṭhār)*, with handwritten notes by Muṭṭahar b. Yaḥyā b. Ḥasan al-Kuḥlānī (1330-1377/1912-1957), Ṣanʿāʾ?, n.d.

Jastrow, Marcus, *A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, and the Midrashic Literature*, New York, 1996.

Korach, Amram b. Yihyeh, Saʿarat Teiman: *A History of Yemenite Jews, Their Customs and Ancestral Traditions*, Jerusalem, 5753/1993. [in Hebrew]

Klein-Franke, Aviva, “Zum Rechtsstatus der Juden im Jemen“, *Die Welt des Islams*, 37/2 (1997), p. 178-222.

Eraqi-KLorman, Bat-Zion, “The Dor Deʿa School of Ṣanʿāʾ”, *Encyclopedia of Jews in the Islamic World*, Hg. Norman A. Stillman, Brill Online, 2012.3

Ibid., “Enlightenment, Judaism, Islam and the Kabbalah Dispute in Yemen: Social and Cultural Considerations”, in *Radicalism and Religious Fanatism* (2007/8), p. 133-180. [in Hebrew]

Messick, Brinkley, *The Calligraphic State: Textual Domination and History in a Muslim Society*. Oxford, 1993.

Mikhael M. Laskier, Mikhael M., *The Alliance Israélite Universelle and the Jewish Communities of Morocco: 1862-1962*, New York, 1983.

Ibid., *North African Jewry in the twentieth Century: The Jews of Morocco, Tunisia, and Algeria*, New York, 1994.

Meissner, Renate, “The Maria Theresia Taler: Traces of an Austrian Empress in Yemen”, in *Judaeo-Yemenite Studies: Proceedings of the Second international Congress,* ed. E. Isaac and Y. Tobi, Princeton, 1999, p. 101-118.

Nini, Yehuda, *Yemen and Zion: The Jews of Yemen, 1800-1814*, Jerusalem, 1982. [in Hebrew]

Parfitt, Tudor, *The Road to Redemption: The Jews of the Yemen 1900-1950*, Leiden, 1996.

Piamenta, Moshe, *Dictionary of Post-Classical Yemeni Arabic*, Leiden, 1990.

Ratzabi, Yehuda, "Abyaḍ, Yiḥya ben Shalom". *Encyclopedia Judaica*, Vol. I, S. 346, Detroit, 2007.

Sémach, Yomtob, *Une Mission de L'Alliance au Yémen*, Paris, n.d. [around 1910]

Schmidt, Dana Adams, *Yemen: The Unknown War*, New York, 1968.

Serjeant, Robert Bertram, Ronald Lewcock, und G. Rex Smith, "The Jews of Ṣanʿāʾ", in *Ṣanʿāʾ: An Arabic Islamic City*, Cambridge, 1983, p. 391- 431.

Stillman, Norman, *The Jews of Arab Lands in Modern Times*, Philadelphia, 1991.

Tobi, Yosef, *The Jews of Yemen*, Leiden, 1999.

Ibid., "Conversion to Islam Among Yemenite Jews Under Zaydī Rule: the Position of Zaydī Law, the Imam, and Muslim Society", *Peamim* 42 (1990), p. 105-126. [in Hebrew]

Ibid., "Ha-mivne ha-ḥevrati ve-ha-kalkali šel yehudei Teman be-meʾot ha-19 ve-ha-20", in *The Jews of Yemen in Modern Times: Studies and Essays*, ed. Yosef Tobi, Jerusalem, 1984, p. 196-215. [in Hebrew]

Wagner, Mark S., *Yemeni Jews Challenge the Shariʿah*, forthcoming.

Ibid., "Jewish Mysticism on Trial in a Muslim Court: A *Fatwā* on the *Zohar* – Yemen 1914", *Die Welt des Islams* 47,2 (2007), S. 207-231.

Al-Wāsiʿī al-Yamānī, Abd al-Wāsiʿ b. Yaḥyā, *Tārīḫ al-Yaman, al-musammā Furǧat al-humūm wa'l-huzn fī ḥawādīṯ wa-tārīḫ al-yaman*, Ṣanʿāʾ, 2007.

Wehr, Hans, *Arabisches Wörterbuch: Für die Schriftsprache der Gegenwart und Supplement*, 1976.

Ibid., *A Dictionary of Modern Written Arabic: Arabic-English*, ed. J. Milton Cowan, Beirut, 1980.

Zevin, S.J., "Shofar", *Encyclopedia Judaica* (EJ[2]).

Zabāra, Muḥammad b. Muḥammad b. Yaḥyā, *Nuẓhat al-nazar fī riǧāl al-qarn al-rābiʿ ʿashar*, Maktabat al-Iršād: Ṣanʿāʾ, 1431/2010. [in Arabic].

NOTES

1. The only study mentioning Ms.Ar.120 (*nizām al-yahūd*) is Mark S. Wagner's *Yemeni Jews Challenge the Shariʿah*, forthcoming, p. 27, n. 104 (of the unpublished draft). He refers to it as a "renewed commitment to the Zaydī Version of the 'Pact of 'Umar'". Wagner, however, does not discuss the document in detail, nor presents its exact text, but refers to it as a reference in a footnote only. I would like to thank him for sending me the draft of his book.

2. Naming only the most recent ones here, cf. Parfitt, *The Road to Redemption: The Jews of the Yemen 1900-1950*, Leiden, 1996, p. 41-42, who refers to an "edict"; Klein-Franke, Aviva, "Zum Rechtsstatus der Juden im Jemen", *Die Welt des Islams*, 37/2 (1997), p. 191-193 and 221-222, referring to a "Schutzbrief" ("Letter of protection"); Menashe Anzi, "Hašpaʿat ha-temurot ha-mediniot ʿal yehudei Ṣanʿa berešit ha-meʾah ha-ʿesrim", in *Mi-tuv Yosef: Yosef Tobi Jubilee Volume, Part two: The Jews of Yemen: History and Culture*, ed. A. Oettinger and D. Bar-Maoz, Haifa (2011) p. 101, referring to a *ṣav* ("decree", "directive", "order"); Ari Ariel, *Trust Networks, Migration, and Ethno-National Identity: Jewish Migration from Yemen to Palestine in the late Nineteenth and Twentieth Centuries* (Columbia University 2009). *ProQuest Dissertations and Theses* (http://search.proquest.com), p. 187-188 asserts that there were two "edicts" of this kind handed out to the Jewish community of Ṣanʿāʾ by Imām Yaḥyā. I assume that this is a mistake, as it does neither correspond to Yemeni historiography nor to the sources cited by Ariel himself. For the 1905 "edict" Ariel cites Gamliel, Shalom b. Saʿadya, *The Jews and the King in the Yemen*, vol. I, Jerusalem, 1986, p. 18 without

mentioning though, that Gamliel's copy itself is (wrongly) dated 1324/1906 and not 1323/1905 (for the date cf. below n. 125 and 179). For the 1910's "edict" Ariel is giving Yomtob Sémach, *Une Mission de L'Alliance au Yémen*, Paris, n.d., p. 38-39 as a reference. Sémach, however, states very clearly that he refers to the year 1905 and not to the year of his own visit to Yemen in 1910. It seems that Ariel adopted a mistake made by Tudor Parfitt, *Redemtion*, p. 41, in regard to the "edict" mentioned in Sémach's report. Citing Sémach and misunderstanding his display of the events of 1905 as an eyewitness-report, Parfitt states, that the writing was handed to the Jews in 1910. This mistake was also noticed by Menashe Anzi, *Temurot be-qihila ha-yehudit be-Ṣanʿā': hebetim politiyim ve-ḥavratiyim ve-hašpaʿatam ʿal peruṣ ha-maḥloket bein ha-"dadaʿim" ve-ha"ʿiqšim"*, Unpublished Master Thesis at the Hebrew University Jerusalem, 2003.I would like to thank Menashe Anzi for sending me a copy of his Master Thesis. Ariel does not make reference to Parfitt at this point, but cites him at other parts of his dissertation. I therefore assume that his assumption of the existence of two "editcs" is based on Parfitts mistake. For the studies referring to Imām Yaḥyā's writing cf. also Kāmīlīyā Abū Ǧabal, *Yahūd al-Yaman: Dirāsa siyāsīya wa-iqtiṣādīwa-iǧtimāʿīya munḏu nihāyat al-qarn al-tāsiʿ ʿašar wa-Ḫatā mintasaf al-qarn al-ʿišrīn*, Damascus, 1999, p. 51-51 and 218. Yemeni historiography does not mention any protection letter given by Imām Yaḥyā to the Jews. Addressing Imām Yaḥyā's writing to the Jews, Wagner, *Challenge*, p. 27 and Anzi, "Hašpaʿat ha-temurot", p. 101, make reference to the Yemeni historian al-Wāsiʿī, which is a bit unclear. Al-Wāsiʿī does not mention a protection letter to the Jews, but rather cites from a treaty draft proposed by Imām Yaḥyā Ḥamīd al-Dīn to the Ottoman government in Ṣafr 1324/April 1906. In this draft the Imām suggested that the Jews (*isrāʾīliyīn*) should be judged by Islamic law when it comes to perpetrations that are to be punished by *ḥudūd* (nr. 6), and that they should not rule over Muslims (nr. 12). Cf. ʿAbd al-Wāsiʿ b. Yaḥyā al-Wāsiʿī al-Yamānī, *TārīḪ al-Yaman, al-musammā Furǧat al-humūm wa'l-huzn fī ḥawādīṯ wa-tārīḪ al-yaman*, Ṣanʿāʾ, 2007, p. 327-328. The draft was not accepted by the Ottoman government. Only later, in 1907, was a treaty agreed upon between Imām Yaḥyā and the Ottoman government (treaty of Daʿʿān).

3. The transcriptions will be addressed in detail below.

4. I refer here to the transcriptions' text editions made by Goitein and Gamliel, both of which are discussed in detail below. Cf. Goitein, Shlomo Dov, "Sefer eškolot merorot" in *The Yemenites: History, Communal Organization, Spiritual Life*, ed. S.D. Goitein, Jerusalem, 1932, p. 171-196 and Gamliel, *The Jews and the King*, p. 18-20.

5. Cf. Sémach, *Mission.* His account will be discussed in detail below.

6. My dissertation, under the supervision of Gudrun Krämer, Ulrike Freitag and Gabriele vom Bruck, will be completed in 2014 at the Freie Universität Berlin, Berlin Graduate School Muslim Cultures and Societies. Its working title is "Islamic Governance in Yemen: Imām YaḪyā's Protection of the Jews and the Negotiation of Power".

7. I discussed this question with ʿAbdū Ḥusain Sallāḥ, a Yemeni expert on manuscripts working at the *Dār al-MaḪṭūṭāt* in Ṣanʿāʾ. I would like to thank him for his continuing help and advice.

8. It was not common in Yemen to copy documents of this kind.

9. This issue will be further analysed in my dissertation.

10. For historical events according to Yemeni (pre-1962-revolutionary) historiography cf. al-Wāsiʿī, *TārīḪ al-Yaman*, p. 271.

11. Several members of the Ḥibšūš family emigrated from Yemen at different times. For the family's history cf. Yeḥiʾel Ḥibšūš, *Mišpaḥat Ḥibšūš*, Bnei Brak, 1985, vol. I and II.

12. I did not find any entry with this name in the Yemeni biographical reference works.

13. The Library's catalogue entry states that there are "names of some officials", but it looks like only one name is available.

14. Cf. the information given in the Library's catalogue entry (accessed April 18th 2013): http://primo.nli.org.il/primo_library/libweb/action/dlDisplay.do?vid=NLI&docId=NNL_ALEPH002810480.

15. For biographical information on Tov Ḥibšūš cf. Ḥibšūš, *Mišpaḥat Ḥibšūš*, p. 221. Regarding the document's journey, I would assume that it was kept in Yemen until the last family members emigrated. It seems likely that it was kept as a written proof of the Imām's protection guarantee. Furthermore, Shlomo Dov Goitein (1900-1985) does not mention the document in any of his studies. As profound as his work is, I find it most unlikely that he wouldn't have known of the document if it was already in the country when he conducted his Yemen-related research in the 1930ies.

16. His brother Ḥayim is well-known too. He accompanied Yosef ha-Levi on his travel to Yemen. Cf. Shlomo Dov Goitein, "Sefer eškolot merorot" in *The Yemenites: History, Communal Organization, Spiritual Life*, ed. S.D. Goitein, Jerusalem, 1932, p. 172 and the Journey's report itself: Habshush, Hayyim, *Joseph Halevy's Journey in Yemen as related by his Companion Hayyim Habshush*, ed. S.D. Goitein, Tel Aviv, 1939. The report was translated into French in 1995. Cf. Habshūsh, Hayīm, *Yémen [Texte imprimé] : récit / Hayîm Habshûsh ; trad. de l'arabe yéménite et présenté par Samia Naïm-Sanbar*, Arles, Actes Sud, 1995.

17. This is true for Goitein's edition (cf. below) and the manuscripts of Ḥibšūš's diary that I saw on microfilm in the National Library of Israel.

18. Personal observation.

19. In addition to some private contacts, I consulted again ʿAbdū Ḥusain Salāḥ from the *Dār al-Maẖṭūṭāt* in Ṣanʿā' and al-Qāḍī ʿAlī Abū Riğāl, Director of the Yemeni National Archive, both of whom were very supportive and contributed to advancing my research.

20. It is uncertain when and how the manuscripts arrived in Palestine, where Goitein lived after he fled Europe and until he moved to Princeton in 1947.

21. The term "Islamicate" was first characterised by Marshall G.S. Hodgon, *The Venture of Islam*, Chicago, 1974, vol. I, p. 57-60, and is used more often recently. He suggested using the term "Islamic" when referring to religion and faith, and to use "Islamicate" when referring to rather cultural and social aspects of societies that are predominantly Muslim, which I find very convincing as this includes not only non-religious aspects, but also Non-Muslim actors.

22. All of them are mentioned in the critical edition of Ms.Ar.120 or its translation, cf. below.

23. Cf. Norman Stillman, *Jews of Arab Lands in Modern Times*, Philadelphia, 1991, p. 225-226.

24. For an example concerning the *fatra- fiqh* passage cf. below, n. 58 and 132.

25. On his biography and problematic issues concerning the use of his document collection as historical source cf. my book, Imām Yaḥyā Ḥamīd ad-Dīn und die Juden in Ṣanʿā (1904-1948*): Die Dimension von Schutz (Dhimma) in den Dokumenten des Rabbi Sālim b. Saʿīd al-Ğamal*, Berlin, K. Schwarz, 2010, p. 95-111.

26. Cf. for instance Klein-Franke, "Rechtsstatus", p. 221-222, and Ariel, *Trust Networks*, p. 187.

27. Cf. Gamliel, *The Jews and the King*, p. 20.

28. Cf. below, n. 73, 142 and 143.

29. Cf. Joshua Blau, *The Emergence and Linguistic Background of Judaeo-Arabic: A Study of the Origins of Middle Arabic*, Jerusalem, 1981, p. 70.

30. All experts consulted on this question agree that Gamliel's facsimile was certainly not written by the Imamic office, as there are too many "mistakes" or linguistic characteristics that would be wrong in classical Arabic, but are typical for Judaeo-Arabic.

31. Cf. Gamliel, *The Jews and the King*, p. 20.

32. As for instance by Aviva Klein-Franke, "Rechtsstatus", p. 221, and Abū Ğabal, *Yahūd al-Yaman,* p. 218 who do not explicitly call Gamliel's copy "the original" but suggest it in the way they are writing on it and presenting its facsimile. In his Master Thesis, Anzi, *Temurot*, chapter 1.2. explicitly refers to Gamliel's copy as "the original" (*ha-mekori*). He compares Gamliel's copy with

the text in Goitein's edition of Ḥibšūš's *eškolot merorot*, and also refers to Sémach's account. Despite this false assumption in regard to the originality of Gamliel's copy, Anzi reveals interesting and new insides into the relationship between Imām Yaḥyā and the Jews as well as the influences of the political change on the inner Jewish conflicts. I would like to remind the reader, that his work I am referring to at this point is not a piece of advanced academic research, but only a Master Thesis.

33. His odd writing of the date (13٣٤, cf. below n. 125) hints to a rather late formulation. The fact that he combined eastern and western Arabic numerals suggests that Gamliel had already left Yemen when he copied the text and was no longer used to the eastern Arabic numbers.

34. Cf. Klein-Franke, "Rechtsstatus", p. 210, where she relates to it as "Imām Yaḥyā's letter of protection to the Jews of Ṣanʿā'" and p. 221.

35. Cf. Abū Ǧabal, *Yahūd al-Yaman.*

36. Cf. Abū Ǧabal, *Yahūd al-Yaman*, p. 51-51 and 218.

37. Cf. al-Safwānī, Riyāḍ Muḥammad Aḥmad, Yahūd al-Yaman: fī qarnain al-tāsiʿ ʿašar wa'l-ʿišrīn al-mīlādiyīn, Ṣanʿā', n.d., unpublished Master Thesis. I would like to thank the author for giving me a copy of his thesis, and Maḫmūd Kassim from the History department of the University of Ṣanʿā' for introducing me to him.

38. Cf. Sémach, *Mission,* p. 38-40.

39. Yomtov David Sémach was himself educated at *AUC* schools around the Ottoman Empire. He was born in Yambol, Bulgaria in 1869 and worked as an *AUC* delegate in Morocco from 1924-1940. Though he worked for the *Jewish Agency*, he is said to have been critical of political Zionism, cf. Mikhael M. Laskier, *North African Jewry in the twentieth Century: The Jews of Morocco, Tunisia, and Algeria*, New York, 1994, p. 48. And *ibid*., *The Alliance Israélite Universelle and the Jewish Communities of Morocco: 1862-1962,* New York, 1983, p. 188, n. 9.

40. Cf. Sémach, *Mission*, p. 38.

41. These make 14 cf. Sémach, *Mission*, p. 39-40.

42. Cf. for instance the *fatra-fiqh* passage (cf. below n. 58 and 132) and the interest business passage (cf. below, n. 85 and 155).

43. Born in Bulgaria, having visited schools all over the Ottoman Empire and working for the *AUC* , it can be assumed that Sémach knew Turkish, Bulgarian, Hebrew and French. Even though he later worked for a long time in Morocco, it might have been sufficient for his work to know French and Hebrew.

44. Cf. the *fatra-fiqh* passage below, n. 58 and 132.

45. Cf. Erich Brauer, *Die Ethnologie der jemenitischen Juden*, Heidelberg, 1934, p. 269.

46. Cf. for instance, Ariel, *Trust Networks*, p. 188, n. 53, Parfitt, *Redemption*, p. 42, n. 91, Anzi, "Hašpaʿat ha-temurot", p. 101, n. 56 and Wagner, *Challenge*, p. 27, n. 104. Goitein, *Yemenites*, p. 172 refers to Sémach discussing the meaning of the Hebrew *lo yasīgū gvulam* ("not reach their borders" or "boundaries", my translation"), cf. below, n. 147.

47. Cf. Parfitt, *Redemption*, p. 41-42.

48. Cf. Sémach, *Mission*, p. 40-41. Also Ariel, *Trust Networks*, p. 187-188 made this mistake and probably adopted it from Parfitt without referencing him.

49. Cf. Dana Adams Schmidt, *Yemen: The Unknown War*, New York, 1968.

50. For the dates given in the transcriptions cf. below, n. 125 and 179.

51. Cf. below n. 58 and 132.

52. Cf. Goitein, *The Yemenites*, p. 173.

53. From the Manuscript Department of the National Library of Israel, Jerusalem. I would like to thank Jamie Nathan and the Manuscript Department for their cooperation.

54. From the Manuscript Department of the National Library of Israel, Jerusalem. The line numbering corresponds to Ms.Ar.120. The document is written in so-called "soft language" (*al-luġa al-lāyina*), that does not make use of *hamza*-s (ʾ), but replaces *hamza* with *yā* or *wāw* (as in

mūminīn instead of *mu'minīn*, and *kanāyis* instead of *kana'is*) . This is typical for *qurayšī* and also for the *ṣanʿānī* dialect (private communication with Muḥammad ʿAbd al-Salām Manṣūr in Ṣanʿāʾ, July 2012). The text is edited according to the source, without *hamza*-s. I introduced dots and comas and added some short vowels to make it easier to follow.The text of the document is partly vocalized and has dots under the letters *ṭā* and *dāl*.

55. A *fa-inna* is missing in Goitein's and Gamliel's editions. Goitein notes, however, that there should be a *fa-inna* at this point. Cf. Goitein, *The Yemenites,* p. 190, Fn. 95.

56. *Al-yahūd* in Goitein's and Gamliel's editions.

57. *Bi-mā* in Goitein's and Gamliel's editions.

58. The text passage between the asterisks (line 3-4) differs extensively from Goitein's and Gamliel's editions. They both have: *umarā al-dūwwal wa-mā kān qablhā min al-fiqh* ("the commanders of the states and what existed before them pertaining to Islamic jurisprudence", my translation). Goitein's and Gamliel's editions continue almost as in Ms.Ar.120: *allati dūfiʿa fī kul imām* ("in [which] every Imām was repelled"). *Allatī* of course does not fit the word *fiqh,* which is masculine, and hence would have to be followed by the masculine relative pronoun *allaḏī.* The sentence, as it is in Goitein's and Gamliel's editions, does not make sense. Goitein remarks (p. 190, n. 96) that Šālom b. Yaḥya Qoraḥ left a blank after the word *fiqh* in both of the copies Goitein reviewed for his edition. Hence, he assumes that the copyist himself was not sure about the passage. Goitein further agrees to a suggestion made by Amram Korach, *Saʿarat Teiman: A History of Yemenite Jews, Their Customs and Ancestral Traditions*, Jerusalem, 1993, p. 153 that the original text might have been *min al-futūr* ("of the lassitude" or in Hebrew: *tašot ha-koaḥ*). Ms.Ar.120, however, clearly reads *fatra*, which can be translated as "lassitude" too, but also as "period of time", which I find more convincing. For further details see the same passage in the English translation of Ms.Ar.120, n. 132.

59. *Fī* without *hā* in Goitein's and Gamliel's editions.

60. Gamliel and Goitein have *Ḫabrā* with an *alif* instead of *ta-marbūṭa*. For the interchange of these letters in Judeo-Arabic cf. Blau, *The Emergence*, p. 70.

61. *Adā* is missing in Goitein's and Gamliel's editions.

62. *Raǧul* instead of *ḏakr* in Goitein's and Gamliel's editions. This replacement does not seem to result from a similar scriptural appearance as for instance in regard to *fatra* and *fiqh* (cf. above n. 58 and below n. 132), but might rather reflect a preference of the copyist, who might have considered *raǧul* more convenient than *ḏakr,* either due to the slightly different meaning or to a shift in general linguistic usage that might have occurred during the 30 years that lie between the document's first composition in 1905 and the time of its copying (around 1930). Cf. also the passage translation below, n. 135.

63. *Muqātil* is missing in Goitein's and Gamliel's editions. Cf. also the passage translation below, n. 135.

64. Goitein and Gamliel both have *fiḍḍa* ("silver") after *qafla. Qafla* is "a bottom weight unit of coins" (cf. Piamenta, *Dictionary*, p. 408). It is often used in combination with silver, but could also be used with other materials. I assume, however, that contemporaries knew that here it was related to silver.

65. *Quddirat* is missing in Goitein's and Gamliel's editions.

66. *Yamtaniʿū* (m-n-ʿ in verbal stem VIII or *istafʿala*) in Goitein's and Gamliel's editions. I read the passage in Ms.Ar.120 as verbal stem V or *tafaʿʿala*, which also seems more likely in regard to the translation. The *alif* of the third person plural is missing in Gamliel's copy. For the shortage of long vowels in Judeo-Arabic cf. Blau, *Emergence*, p. 70.

67. *Min-hā* in Goitein's and Gamliel's editions.

68. *Ilā yadd man* ("in the hand of whom") in Goitein's and Gamliel's editions.

69. *Nazalat* in Goitein's and Gamliel's editions, who both translate it verbally. Though a bit unwieldy in translation, the nominal form of the original document (Ms.Ar.120) seems more

felicitous to a Yemeni linguistic intuition, as I was told in a personal communication with Muḥammad ʿAbd al-Salām Manṣūr in Ṣanʿāʾ, August 2012.

70. *Muttaǧāratihim* in Goitein's and Gamliel's editions, which seems to be a mistake.

71. *Kul-mā* is written in one word.

72. *Rās* ("beginning" or "head") or *raʾs* (with *hamza*) is missing in Goitein's and Gamliel's editions.

73. The text passage between the asterisks (line 14a) differs extensively from Goitein's and Gamliel's editions. Their editions also differ from each other, which is the main reason for me to assume that they had two different copies of Sulaymān Ḥibšūš's *Eškolot Merorot*. Goitein's edition of the Arabic text includes the Hebrew element *kakh ve-kakh* ("so-and-so"), which is some sort of shortening and I assume was probably made by the copyist Šālom b. Yaḥya Qoraḥ. The passage in Goitein's edition reads: *wa-lā fī šay wa-lā fī mā lam yabluġ qadrahu kakh we-kakh (yumkin 19 riyālāt)* ("and nothing on [those things], the amount of which does not reach so-and-so [much] (possibly 19 Riyāl)", my translation). Gamliel's version is more detailed. It reads: *wa-laysa ʿalayhum fī mā dūna al-naṣāb šay wa lā fī mā yabluġ qadrahu al-rukūb ʿalāʿl-ḫayl wa-taḫḫatum al-ḏahab* ("they do not have [to pay] for [those things] that do not reach the minimum amount of property liable for tax payment (*niṣāb*, usually referring to the *zakāh* tax of Muslims, cf. Hans Wehr, *A Dictionary of Modern Written Arabic: Arabic-English,* ed. J. Milton Cowan, Beirut, 1980, p. 969) and neither for [such things] the amount of which corresponds to [the theoretical ability of] riding a horse and wearing a gold ring", my translation). It remains uncertain who made this addition. I assume that it was the unknown copyist of the version from which Gamliel copied his own version. In my view, both Gamliel and Hibšūš are unlikely to be the authors of this addition. As for Sulaymān Hibšūš, who was most likely the one who first copied the original letter (Ms.Ar.120), I would expect his own (and hitherto unknown) copy to be closer to the original letter. The document was in the possession of his family until they donated it to the Manuscript Department of the National Library of Israel. As for Gamliel, he does not seem to be the author of this addition either, as he usually adds his remarks in footnotes that can be clearly distinguished from the main text. However, the mention of horse riding is remarkable, as *ḏimmīs* are often said to be prohibited from it. Gamliel's Hebrew translation (cf. below, n. 142 and 143) leads to the presumption that the financial ability of riding a horse and wearing a gold ring is a definition of the "minimum property" that is referred to before. But in the *niṣāb* (and *zakāh*) related chapters of the most important Zaydi *fiqh* compendium there is no mention of horses and gold rings whatsoever. Cf. Ibn Miftaḥ, Abū'-Ḥasan ʿAbdallāh and al-Imām Aḥmad b. Yaḥyā al-Murtaḍā, *Šarḥ al-Azhār: al-Kitāb al-Muntazaʿ al-muḫtār min al-ġayth al-midrār al-mufattiḥ li-kamāʾim fī fiqh al-aʾimma al-aṭhār*, n.p., n.d., vol. I, chapter *Kitab al-zakāh*, p. 493ff. Taking a second look at this matter, it becomes apparent that riding a horse and wearing a gold ring seem to be too much to define a *minimum* of property. And indeed, taking a second look at all the text versions, it appears the horse and gold ring passage from the version edited by Gamliel does not actually constitute an addition to what is to be understood as *nisāb*, but refers to a new aspect. On this, see also the translation of the passage below, n. 142 and 143. The doubled *šay* in Ms.Ar.120, however, is not a mistake (email communication with Muḥammad ʿAbd al-Salām Manṣūr, April 2013).

74. *Muttaǧārat* in Goitein's and Gamliel's editions.

75. The *nūn-ta* is an abbreviation for *intahā*, that is often used in manuscripts related to Islamic law. Personal communication with Muḥammad ʿAbd al-Salām Manṣūr in Ṣanʿāʾ, March 2012.

76. *Yataʿāwanū* ("support one another") in Goitein's and Gamliel's editions.

77. *Yabḫasū* ("neglect") in Goitein's and Gamliel's editions.

78. *Yuġbinū* ("to cause somebody to be ignorant") in Goitein's and Gamliel's editions.

79. *ʿalā* in Goitein's and Gamliel's editions.

80. *Yaḍharū* in Goitein's and Gamliel's editions. For the reproduction of the Arabic letters *ḍ*(ض) and *ẓ*) with the same Hebrew letter in Judaeo-Arabic (ظ)צ) cf. Joshua Blau, *A Grammar of Medieval Judaeo-Arabic*, Jerusalem, 1961, p. 11-27.

81. There is a vertical stroke before the last *mīm*, that looks like a *lām*. It seems, that the scribe made a mistake, and then corrected it. However, I assume it should be read as *qirāyatahum*, or making use of the *hamza qiraʾatahum*. This corresponds to all the known transcriptions of this passage.
82. *Al-ṣaut* in Goitein's and Gamliel's editions.
83. *Mamnuʿīn* in Goitein's and Gamliel's editions.
84. *Min* in Goitein's and Gamliel's editions.
85. *Al-karīha* "repulsive" in Goitein's and Gamliel's editions. On this replacement, cf. also the translation of the passage and n. 155.
86. *Al-maġāḍib* ("wrath") in Goitein's and Gamliel's editions.
87. *Taʿḍīm* in Goitein's and Gamliel's editions, cf. above n. 80.
88. *Ikrāmahu* in Goitein's and Gamliel's editions.
89. *Iḫtārū* in Goitein's and Gamliel's editions.
90. *Al-ḏimmiyīn* in Goitein's and Gamliel's editions.
91. *Hārūn* with *alif* in Goitein's and Gamliel's editions.
92. *Ibn Sālim* is missing in Goitein's and Gamliel's editions.
93. *Al-ḏimmī* is missing in Goitein's and Gamliel's editions. Their editions, however, had the plural form (*al-ḏimmiyīn*) before (cf. above, n. 90).
94. *Sulaymān* is missing in Goitein's and Gamliel's editions.
95. *Al-ḏimmī* is missing in Goitein's and Gamliel's editions, cf. above n. 93.
96. *Al-ḏimmī* is missing in Goitein's and Gamliel's editions, cf. above n. 93.
97. *Sālim* is missing in Goitein's and Gamliel's editions.
98. *Afsādahum* in Goitein's and Gamliel's editions.
99. *Al-yahūd* in Goitein's and Gamliel's editions.
100. *Māmūrīn* (*maʾmūrīn* with *hamza*) in Goitein's and Gamliel's editions.
101. *Hāulāī* in Goitein's and Gamliel's editions. Whereas the *hamza* is omitted in all versions, the *alif maqṣūra* is represented twice. While the doubling seems unnecessary, the representation of *alif maqṣūra* (and *alif mamdūda*) by the Hebrew *alef or yūd* is common in Judaeo-Arabic. Cf. Blau, *Emergence,* p. 75.
102. The *alif* is missing in Gamliel's version, cf. above n. 66.
103. The *alif* is missing in Gamliel's version, cf. above n. 66.
104. The *tanwīn* is missing in Goitein's and Gamliel's editions. For the omission of the *tanwīn* in Judaeo-Arabic, cf. Blau, *Grammar*, p. 148.
105. *Biʾl-ṭamʿ* in Goitein's and Gamliel's editions.
106. *Yantalif* in Goitein's and Gamliel's editions.Ḫ
107. The eulogia is missing in Goitein's and Gamliel's editions and in all the translations of the text.
108. *ʿalayhim* in Goitein's and Gamliel's editions.
109. *Al-ḏimmī* is missing in Goitein's and Gamliel's editions, cf. above n. 93.
110. *Yataʾmar* ("he shall command") in Goitein's and Gamliel's editions, instead of *yaʾtamar* ("he shall obey").
111. *An* in Goitein's and Gamliel's editions. Goitein, however, remarks that in this way the second part of the sentence is redundant. Cf. Goitein, *The Yemenites*, p. 191, n. 98.
112. *Yarʿā al-yahūd* in Goitein's and Gamliel's editions. The text in Ms.Ar.120 is right (email communication with Muḥammad ʿAbd al-Salām Manṣūr, April 2013).
113. *Manzilihim* in Goitein's and Gamliel's editions.
114. *Yumnaʿūn* (passive) in Goitein's and Gamliel's editions, as later in Ms.Ar.120 (line 20).
115. *Yuʿamid* in Goitein's edition.

116. *Yaǧrā* in Goitein's and Gamliel's editions. The *yā* in the original text does not have dots, and looks like an *alif maqṣūra*. In Judaeo-Arabic, however, the Hebrew *alef* and *yud* can both be used to write an *alif mamdūda* or *maqṣūra*, cf. above, n. 101.
117. *Al-nabī* in Goitein's and Gamliel's editions.
118. *Alif* and *hā'* for *Allāh*. But in the document it is not fully written.
119. The *min* is missing in Goitein's and Gamliel's editions.
120. *Ḏimmatina* in Goitein's and Gamliel's editions.
121. 25 in Gamliel's edition.
122. *Šahr* is missing in Goitein's and Gamliel's editions.
123. *Auwal* without the article in Goitein's and Gamliel's editions.
124. The word *sanatin* is represented by the horizontal stroke on top of the year.
125. 1324 in Goitein's and Gamliel's editions. Gamliel gives the number in a combination of eastern and western Arabic numerals (١٣٢٤), cf. also the translation below, n. 179.
126. *Intahā* is missing in Goitein's and Gamliel's editions. It means "end" or "stop" and marks the end of a certain thought.
127. Manuscript Department of the National Library of Israel, Jerusalem. The numbers refer to the lines of Ms.Ar.120. I introduced paragraphs to make it easier to follow the text. I studied the text in Ṣanʿā' (July 2012) together with Muḥammad ʿAbd al-Salām Manṣūr. He is a known poet, advisor of the Yemeni Minister of Culture and learned scholar of the Arabic language and Islamic jurisprudence. I would like to thank him for his patience in explaining everything. He contributed enormously to my understanding of the text, without which I would not have been able to produce this translation. I would also like to thank Yehuda Nini, who explained those passages of Ḥibšūš's Hebrew translation that I did not understand on my own.
128. There is of course no original seal in Goitein's and Gamliel's editions. In Goitein's edition (p. 190), however, the seal is mentioned at the beginning of the transcription of the Arabic text. It seems likely that the mention of the seal was added by Sulaymān Hibšūš himself when he copied the original document, and was then copied together with the text itself by later copyists. Norman Stillman does not refer to the mention of the seal in Goitein's edition, from which he translated, but starts directly from the *basmala*. Gamliel does not mention any seal either, and opens his transcription of the text with the *basmala* as well. Sémach, *Mission*, p. 38 also starts with the *basmala*, and does not mention any seal.
129. Sémach, *Mission*, p. 38 reflects this passage as personalised to Imām Yaḥyā: "Voici le réglement que je donne pour tous les israélites qui doivent rester soumis á mes lois". This was also preserved in Parfitt's translation of this passage in Sémach's travel report: "These are the regulations that I gave the Jews", cf. Parfitt, *Redemption*, p. 41.
130. Here too, Sémach and Parfitt have the personalised form, cf. above n. 129.
131. *Rūm, arwām,* as it is in Ms.Ar.120, usually denotes Rome or Byzantium. In the Yemeni context, however, it is also used to name the Ottomans. Cf. Moshe Piamenta, *Dictionary of Post-Classical Yemeni Arabic*, Leiden, 1990, p. 193. Also Ḥibšūš (in Goitein, *The Yemenites*, p. 189) refers to the Ottomans in his Hebrew translation, cf. below, n. 132.
132. The whole passage differs extensively in the copies of the Arabic text. Cf. above, n. 58. Referring to Goitein's edition, Stillman, *Modern Times*, p. 225 translates: "It is intended to remind them of what the governors of the Ottoman Empire abolished ... [sic!], which is required by the principles of law". Ḥibšūš's Hebrew translation has: *be-ze haṣaʿa [...] va-yiṯhadeš ha-ḥiuv ašer šiqʿūho peḥot tugrema ve-ašer lifneyam [lifney hem] haya kišalon melaḫey teman ve-ašer mašalo mibli šaḥar ve-yediʿa ka-ašer nitḥayavnu mi-sefar ha-mišpatim* ("with this proposal [the writing itself] [...] the agreement shall be renewed, which the Pashas of Turkey already let decline and which [the agreement] the kings of Yemen failed [to establish] before them [before the Pashas of Turkey ruled over Yemen], when those were ruling [over Yemen, i.e. when the Pashas of Turkey, that is, the Ottoman governors were ruling over Yemen] who did not have any notion and knowledge

[about] what we have made obligatory from the book of the laws.", my translation). This passage of Ḥibšūš's Hebrew translation is extremely difficult to understand. It appears, however, that although it does not have the same meaning as Ms.Ar.120, this translation is much closer to the original letter than any of the Arabic transcriptions of the text. This may also be the reason why Goitein, *The Yemenites*, p. 189, n. 82 remarks that he does not know how this translation is supposed to reflect the Arabic text. He of course did not see Ms.Ar.120, but only the copies of *eškolot merorot* made by Qoraḥ in the 1930ies. Gamliel's translation is a bit cryptic: *yazkiram ze ma-še šiqʿūho sarey ha- šiltonot ve-ma še-haya lefanav me-ha-ʿ iyun ha-limudi še-nitan be-khol tekufat imām ve-piked ba mi še-eyn lo yedaʿ be-ma še-mitḥayev me-ha-ḥokim* ("this [writing] shall remind them of what the rulers of the governments let decline and what occurred before it [the writing] in terms of the learned teaching that is given in every Imām's era and when [during the period when the rulers of the governments let decline the rules mentioned in the writing] those were ruling who do not have any knowledge [about] which of the rules are obligatory", my translation). It is interesting that Gamliel refers to the word *fiqh* as a discipline of traditional Islamic learning, and not as Islamic jurisprudence or law. However, both are correct. Klein-Franke, "Rechtsstatus", p. 221 has: "Die Gemeinschaft der Juden muß sich an die Verpflichtungen gegenüber dem Gesetz und an die Bedingungen halten, die ihnen von den Staatsoberhäuptern und deren Vorgängern auferlegt sind, und die sie nicht ändern dürfen" ("The Community of the Jews has to adhere to the obligations towards the law and to the conditions that were imposed on them by the heads of state and their predecessors, and that they shall not change", my translation). This, however, does not reflect Gamliel's Arabic version (cf. above n. 58), nor his Hebrew translation. Though it does not correspond to the text of Ms.Ar.120, Sémach, *Mission*, p. 38 rather seems to refer to *fatra* and not to *fiqh*. He has: "je rappelle les devoirs que les Turcs ont oubliés et qu'on observait du temps de pieux Imams, avant le triomphe des gens ignorant la loi". Parfitt, *Redemption*, p. 41 translated: "I recall the duties which the Turcs have forgotten and which were observed at the time of the pious Imam before the triumph of those people who were ignorant of the law."

133. Stillman, *Modern Times*, p. 225 translates *muʾāminūn* with "protection". So does Klein-Franke, "Rechtsstatus", p. 221 who has "Diese Juden sind geschützt gegen Zahlung der Ǧizya" ("These Jews are protected through *ǧizya* payment", my translation). Both Hebrew translations have "secured". Ḥibšūš in Goitein's edition (p. 189) has *betuḥim*, Gamliel (p. 19) has *mevutaḥim*. As in English and German, also in Hebrew, the Arabic word *amān* can be translated as both "security" (*bitaḥon*) and "protection" (*ḥasut*). Cf. David Ayalon and Pessach Shinar, *Arabic-Hebrew Dictionary of Modern Arabic*, Jerusalem, 2000, p. 11. Whereas both of these translations are also given when it comes to the Arabic word *ḏimma*, this is different in Hebrew. Here, *ḏimma* is usually translated with the Hebrew *ḥasut* (Ayalon, *Dictionary*, p. 116) whereas *bitaḥon* would more often mean *amān*. Cf. also below n. 138 and 178. Sémach, *Mission*, p. 39 has: "Les Juifs peuvent être tranquille et être assuré de leur existence, s'ils paient régulièrement le *djzii*." This is translated by Parfitt, *Redemption*, p. 41 as follows: "The Jews need fear nothing and may be assured of their existence, as long as they pay the *jizya*."

134. *Bāliġ* is not defined here. Maturity can be determined in more than one way in Islamic law (genital hair, first ejaculation, first period, intellectual maturity, etc.). Referring to a certain age around 11-13 is only one of them. This definition is reflected in Sémach, *Mission*, p. 39: "Tout mâle ayant atteint l'âge de treize ans". Parfitt, *Redemption*, p. 41 translated: "Every male over the age of thirteen".

135. *Muqātil* ("fighter" or "somebody possessing theoretical fighting ability") is missing in Goitein's and Gamliel's editions. Furthermore, the word *ḏakr* in the original was replaced by *raǧul* in the copies. This particular difference between the original letter and its copies does not seem to result from an analogy of the word's typeface (as could be the case with *fatra* and *fiqh*) but rather seems to be a replacement or "correction" by the copyist. Goitein mentions that in one of

the copies (private collection) he had reviewed for his own edition, the copyist Šālom b. Yaḥya Qoraḥ complains about the many mistakes made in the *eškolot merorot* version he was copying from, adding that he corrected some of the gaps and defects, cf. Goitein, *The Yemenites*, p. 173. This approach may explain some of the deviations between Ms.Ar.120 and its copies. Pointing not only to the biological gender as *ḏakr*, but also to a certain idea of virility and manhood, the word *raǧul* seems to also imply the ability to fight. Sulaymān Ḥibšūš also translated the Arabic text to Hebrew with this connotation: "from every man who became able to fight" (*mi-kol iš ašer higiʿa lihiot le-ven-ḥayl*), cf. Goitein, *The Yemenites*, p. 189. Referring to Goitein's edition, Stillman, *Modern Times*, p. 225 has "adult male". Gamliel, *The Jews and the King*, p. 19 has "mature man" (Hebrew: *iš boger*), whereas Klein Franke, "Rechtsstatus", p. 221 though referring to Gamliel's edition, does not clarify that the *ǧizya* payment is only applicable to men and not women. She translates "from every adult" ("von jedem Erwachsenen").

136. *Qafla* is the "bottom weight unit of coins". Cf. Piamenta, *Dictionary*, S. 408. In Ḥibšūš's Hebrew translation it is *dirham*, cf. Goitein, *The Yemenites*, p. 189. Gamliel, *The Jews and the King*, p. 19 did adopt the currency *qafla* in his Hebrew translation. So did Stillman and Klein-Franke. Sémach, *Mission*, p. 39 has "drachmes", which actually means *dirham*. Whereas *qafla* refers to a weight unit, *dirham* refers to a coin, which was made from silver, and probably scaled one *qafla*.

137. One *riyāl* (also referred to as one *qirš*) is one Austrian Maria Theresia Taler, which was used in Yemen and elsewhere as a trade coin. One coin contains 23.387 grams of fine silver and was re-minted by Imām Yaḥyā with his own seal and the *šahāda*. It was used as a currency, but also as raw material for silver jewelry in Yemen. Cf. Renate Meissner, "The Maria Theresia Taler: Traces of an Austrian Empress in Yemen", in *Judaeo-Yemenite Studies: Proceedings of the Second international Congress*, ed. E. Isaac and Y. Tobi, Princeton et. al., 1999, p. 101-118. Under the reign of Imām Yaḥyā, one *riyāl* was divided into 40 *buqaš* (sing. *buqša*). There were ¼, 1/10 and 1/20 *riyāl* coins made of silver and smaller units made of copper, cf. Aḥmad Qāyid Barakāt, "Al-nuqad fi'l-yaman", *Al-mawsūʿa al-yamanīya*, vol. IV, p. 3039. All the tax payment amounts are identical in Sémach's report (*Mission*, p. 39).

138. Gamliel's Hebrew translation is close to mine: "by that their blood is spared and they enter the [pact of] protection" (*nimnaʿ be-ze šfiḫat damam ve-niḫnesu taḥat ha-ḥasut*). Ḥibšūš's translation, however, is different: *ve-ze kofer nafšam va-yitḥayev kol ha-pogeʿa ba-hem* ("this [the *ǧizya*] is the ransom of their souls and puts everyone in debt who harms them.", my translation). Ḥibšūš's translation gives quite an interesting insight into how a native speaking and contemporary Yemeni–who was most probably not familiar with the *topoi* of the research on Jews of the Islamic world–conceived of the word *ḏimma*, which in addition to its legal connotation can also refer to financial debts as well as other obligations in a more figurative sense, cf. Wehr, *Dictionary*, p. 312. Stillman, *Modern Times*, p. 225 translated as "pact of protection", and Klein-Franke, "Rechtsstatus", p. 221 as "Schutzvertrag" ("pact" or "contract of protection"). Sémach, *Mission*, p. 39 refers to this passage as follows: "et, par cela, leur sang sera conserve sous notre domination". Parfitt, *Redemption*, p. 41 translated: "and by these means their lives will be safeguarded under our rule".

139. Goitein, *The Yemenites*, p. 189, n. 83 refers to the mentioning of the *ǧizya* payment in the Qurʿān. Cf. Sura 9:29: *qātilū allaḏīna lā yuʾminūna biʾllāh wa-lā biʾl-yawm al-āḫir wa-lā yuḥarrimūna mā ḥarrama allāh wa-rasūluhu wa-lā yadīnūna dīn al-ḥaqq min allaḏīna ūtūʾl-kitāb ḥatā yuʿṭūʾl-ǧizya wa-hum ṣaġirūna*. ("Fight against those who have been given the Scripture as believe not in Allah nor the Last Day, and forbid not that which Allah hath forbidden by His messenger, and follow not the Religion of Truth, until they pay the tribute readily, being brought low." Marmaduke Pickthall's translation). I would prefer translating *Allāh* to "God".

140. *Niṣāb* usually designates the "minimum amount of property liable for payment of the *zakāh* tax" for the Muslims, cf. Wehr, *Dictionary*, p. 969.

141. Only Sémach, *Mission*, p. 39 gives another amount here, which is twice a tithe instead of half a tithe: "le vigntième de leurs benefices". Parfitt, *Redemption*, p. 41 adopted this in his translation: "twentieth of their profits".

142. The passage differs extensively in the copies of the text. Cf. above, n. 73. In Ms.Ar.120 there is no definition of how much the taxable minimum (*niṣāb*) is. Stillman, *Modern Times*, p. 225 has: "However, they owe nothing on whatever falls below the taxable minimum of 10 riyals". This seems to be a mistake. Stillmann refers to Goitein's edition, but here (p. 190) either Ḥibšūš himself or the copyist gives the amount of about 19 Riyāl. In a note to Ḥibšūš's Hebrew translation (in which he does not define the *niṣāb*'s amount), Goitein states that the *nisāb* was about 200 dirham during this time. He, however, does not give any reference. Cf. Goitein, *The Yemenites*, p. 189, n. 84. Goitein's assumption seems to be a mistake, as 200 dirham are given in the *ŠarḤ al-Azhār* in order to define the minimum amount of property for someone belonging to the highest tax class of the "rich" (*al-ġanī*) and not the *niṣāb*. Gamliel's version is completely different (p. 19) and cf. above n. 73. He first mentions that they do not have to pay for things that do not reach the taxable minimum (which he does not define explicitly), and then adds: *ve-lo ʿal-ma še-lo yagiʿa ʿarḤo lirkav ʿal sus ve-laʿnod zahav* ("and not for whatever does not reach the amount of riding a horse and putting on a gold ring"). Gamliel's translation of the version he copied suggests that "the amount of riding a horse and putting on a gold ring" is an addition for what is considered the taxable minimum. This is, however, most unlikely, and I think that Gamliel made a mistake in his translation. I assume that he did not see the original document Ms.Ar.120, but copied the letter from a hitherto unknown copy of Ḥibšūš's book *eškolot merorot*. Therefore, it might not have been possible for him to understand the copy he saw in its original sense, which is only possible by comparing Gamliel's edition with Ms.Ar.120.

143. This passage is missing in Goitein's and Gamliel's editions, see above n. 73. Regarding the Arabic text of Gamliel's edition, despite appearing peculiar at first sight and skipping the "immovables", it did seize the actual meaning of the passage as it is in Ms.Ar.120, adding the horse riding and wearing a gold ring in order to explain that even wealthy men who belong to the highest tax class for *ǧiyza* payment do not have to pay taxes for their non-trade-related belongings. This notion of a man riding a horse and wearing a gold ring–or being theoretically able to do so–as indicating a certain level of affluence is not an invention of a Jewish copyist, but an image from Zaydī jurisprudence. In the section about *ǧizya* payment in the *ŠarḤ al-Azhār,* the financial ability of riding a horse and wearing a gold ring is mentioned in order to define the highest tax group for *ǧizya* payment. Cf. Ibn Miftaḥ and al-Murtaḍā, *Šarḥ al-Azhār*, vol. I, *Kitāb al-Ḫums*, p. 576. The fact that here a Jewish copyist refers to contents from Zaydī-islamic jurisprudence is remarkable, and leads to the question of whether Jews were familiar with this kind of Islamic literature, or if parts of it might have belonged to some sort of common knowledge, the source of which might have been unknown to most people. Referring to another book of Gamliel (Shalom Gamliel, *The Jizya: Poll Tax in Yemen*, Jerusalem, 1982, p. 58), Klein-Franke, "Rechtsstatus", p. 185f. mentions horse riding and the wearing of a gold ring as defining the highest tax class for *ǧizya* payment during the Ottoman reign, which corresponds with the data from the *Šarḥ al-Azhār*. Her translation, however, reflects neither the Arabic text in Gamliel's edition nor his translation: "Von der Steuer ausgenommen sind auch solche Dinge, die sie zum Reiten auf dem Pferde benötigen sowie das Gold, das sie zum Schmucke tragen" ("excluded from the tax are also such things, which they need in order to ride on horses, as well as the gold they are wearing for decoration", my translation). Though modified from its context in *fiqh* literature, the reference to horse riding is also made in a protection letter ascribed to the prophet Muḥammad himself, arguing that only those Jews who can afford riding a horse have to pay the *ǧizya*. Cf. Shlomo Dov Goitein, "*Mi-gnizei beit ha-sfarim: Kitāb ḏimmat al-nabī, sefer ḥasut la-yehudim ha-meyuḥas le-Muḥammad*", *Kirjat Sepher* 9 (1932/33), p. 507-521. Regarding the question of why this passage has so many deviations, this could result from the fact that the original document is

difficult to read at this point, as the lines in question are written in very small script and above the actual line, and might therefore have been falsely copied from the very beginning. Cf. above line 14 of Ms.Ar.120 facsimile.

144. Ḥibšūš translates *ǧizya* with *kofer* ("ransom"), cf. also above n. 133. The more common recent Hebrew translation of the word *ǧizya* is *mas ḥasut* ("protection tax") as in Gamliel's translation, p. 19 or *mas gulgolet* ("scull" or "head tax"), cf. Ayalon, *Dictionary*, p. 53.

145. *Yataṭāwilū* has a couple of gradational meanings. Cf. Wehr, *Dictionary*, p. 575. It might therefore give a more detailed impression to give at least two meanings. In combination with *ilā* it could, according only to the German Wehr-edition, also be translated as "sich einen Rang anmaßen" ("to claim a certain status for oneself", my translation), cf. Hans Wehr, *Arabisches Wörterbuch: Für die Schriftsprache der Gegenwart und Supplement*, 1976, p. 520. The deviation in Stillman's, Klein-Franke's and Gamliel's translations who all have "not to assist each other against" (Klein-Franke: "sich nicht gegenseitig Beistand leisten", and Gamliel: *ve-ein lahem laʿazor iš le-raʿehu neged muslim*) result from the text variant in Goitein's and Gamliel's edition. Cf. above n. 76 . Ḥibšuš's Hebrew translation (in Goitein, *The Yemenites*, p. 189), however, does preserve the meaning of Ms.Ar.120: *Ve-ein lahem rešut še-yitʿalu ve-yitgeʾu ʿal baʿalei dat Muḥammad* (they have no permission to elevate themselves and to [behave] proudly towards the people of Muḥammad's religion", my translation). Sémach, *Mission*, p. 39 has: "Elever la voix devant un musulman". Parfitt, *Redemption*, p. 41 translated: "raise their voice against a Muslim". Schmidt, *Unknown War*, p. 106 translated: "raise their voice in front of Moslems".

146. *Yuzāḥimhum* can be used in a figurative and literally sense. Cf. Wehr, *Dictionary*, p. 374. It might therefore give a more detailed impression to give two meanings. Stillman, *Modern Times*, p. 225 only gives the literally sense: "They shall not crowd them in their streets". In contrast, Klein-Franke, "Rechtsstatus", p. 221 gives only the figurative meaning: "sie dürfen nicht in Wettbewerb gegen Muslime treten" ("they shall not compete with Muslims", my translation). Gamliel, *The Jews and the King*, p. 19 rather translates literally: *ve-lo lehaṣer et ṣaʿdehem be-draḫam* ("they shall not narrow their steps in their way", my translation). Hibšūš has *yaʾiṣu* ("to speed up"). Sémach, *Mission*, p. 39 has: "Frôler un musulman en passant dans la rue". Parfitt, *Redemption* , p. 41 translated: "Brush against a Muslim". Schmidt, *Unknown War*, p. 106 translated: "touch a Muslim passing on his way".

147. This passage is equivalent in all the Arabic editions, but can be translated in various ways. Stillman, *Modern Times*, p. 225 has: "They may not turn them away from their watering places". Whereas "their watering places" is indeed one of the possible translations for *mawāridahum*, I think he is mistaken with the verb. *Yardū* does not derive from *radda*, to "drive away" (Wehr, *Dictionary,* p. 333), but rather from *warada*, which means amongst others "to come to", "to appear" or "to be received" (Wehr, *Dictionary,* p. 1060f.). Klein-Franke, "Rechtsstatus", p. 221 has: "ihre Ressourcen nutzen" (they shall not "use their resources", my translation). Gamliel has: *lo yasigu gvulam* ("not reach their borders" or "boundaries", my translation), which is ambiguous too. Ḥibšūš has the same translation as Gamliel. Goitein, however, adds (p. 189, n. 87) that a more literal translation would be: *yilkhu bi-makom she-yilkhu ha-muslemim* (they shall not "go to places, where the Muslims go", my translation). This corresponds to the understanding of Muḥammad ʿAbd al-Salām Manṣūr with whom I have studied the text of Ms.Ar.120 in Ṣanʿāʾ, July 2012. Referring to Wehr, *Dictionary*, p. 1060 the Arabic sentence could just as well be translated with "they must not be received at the Muslim's resources" or "their sources of income" or "supplies", which could also point to a number of things, such as for instance an unequal treatment of salaries and places of employment, but also the possibility to share in stately organised food supply in times of drought and hunger, or restrictions from financial aid for the poor provided by religious (Islamic) endowments. Sémach, *Mission*, p. 39 has: "Faire le même commerce que les Arabes". Parfitt, *Redemption*, p. 41 translated: "Engage in the same commerce". Schmidt, *Unknown War*, p. 106 translated: "engage in the traditional trades and occupations of Moslems".

148. *Yuʿayyabū* has more than one meaning, I therefore gave two of them. Referring to Goitein's and Gamliel's edition, they both have *yabḫasū* in the Arabic text ("diminish", "neglect" or "disregard") instead of *yuʿayyabū* as in Ms.Ar.120 (cf. above n. 77). Stillman's and Klein-Franke's translations also deviate here. Stillman, *Modern Times*, p. 225 has "they may not belittle the Islamic religion". Klein-Franke, "Rechtsstatus", p. 122 has "beleidigen" ("insult"). Gamliel, *The Jews and the King*, p. 19 translates: *lo yašpilu dat ha-islam* ("not degrade the Islamic religion", my translation). As noticed in regard to earlier passages, also here Ḥibšūš's Hebrew translation is closer to Ms.Ar.120 than the Arabic text transmitted in Goitein's edition. Ḥibšūš translates (Goitein, *The Yemenites*, p. 189): *ve-lo yoziʾu šum dofi be-datam* ("and not find any fault in their religion", my translation). Sémach, *Mission*, p. 39 is very close to Hibšūš's Hebrew translation: "Dire que la loi musulmane peut avoir un défaut". Parfitt, *Redemption*, p. 41 translated: "Find any fault in Islamic law". Schmidt, *Unknown War*, p. 106 translated: "to cast obloquy upon the religion of Islam".

149. This passage is equivalent in all the Arabic editions, and has several meanings: "cure", "insult", "revile", "call names", cf. Wehr, *Dictionary*, p. 392. Ḥibšūš translates: *ve-lo yelʿagu ʿal šum navi me-ha-neviʾim,* which can mean both "and not make fun of any of the prophets" or "and not belittle any of the prophets". Stillman, *Modern Times*, p. 225 has: "nor curse any of the prophets". Klein-Franke, "Rechtsstatus", p. 221 has: "keinen Propheten des Islam lästern" ("not to blaspheme any of the prophets of Islam", my translation"). Gamliel, *The Jews and the King*, p. 19 has: *ve-lo yekallelu šum navi* ("and not curse any prophet", my translation). He adds in n. 6: *ha-kavana še-lo yedabru be-ganut Muḥammad* ("this means that they shall not talk about Muḥammad with disgrace", my translation).

150. Ms.Ar.120 has *yuftinū*. Ḥibšūš (Goitein, *The Yemenites*, p. 189) translates: *ve-lo yonu ha-yišmaʿʾeli be-dato* ("and not lead the Muslims astray from their religion", my translation). It is *yuġbinū* in both Goitein's and Gamliel's editions, cf. above, n. 78. Stillman, *Modern Times*, p. 225 translates Goitein's edition as: "They shall not mislead a Muslim in matters pertaining to his religion". Based on Gamliel's edition, Klein-Franke, "Rechtsstatus", p. 221 has: "und keinen Muslim wegen seiner Religion herabsetzend behandeln" ("not to treat any Muslim with degradation because of his religion", my translation). This reflects neither the Arabic text nor Gamliel's translation, which is close to Hibšūš's: *ve-lo yonu muslim ʿal dato* ("and not lead any Muslim astray from his religion", my translation). Sémach, *Mission*, p. 39 has: "Discuter de religion avec un musulman". Parfitt, *Redemption*, p. 42 translated: "Discuss religion with a Muslim". The same in Schmidt, *Unknown War*, p. 106.

151. This only refers to riding on saddles (*ukkaf*). In case Jews would ride without a saddle, they could sit as they wish. This passage is equivalent in all the Arabic editions. Stillman's and Gamliel's translations correspond to mine. Ḥibšūš does not mention the saddle, but only the sideward riding. Klein-Franke, "Rechtsstatus", p. 221 has: "sollen sie beim Reiten nicht auf einem Sattel, sondern seitwärts sitzen." ("they should not sit on a saddle while riding, but rather sit sideward", my translation). This is wrong, as it is both together: sitting sideward *whenever* riding on a saddle. Sémach, *Mission*, p. 39 has: "Monter sur le bêtes suivant l'usage à califourchon". Parfitt, *Redemption*, p. 42 translated: "Ride animals using a normal saddle". Schmidt, *Unknown War* , p. 106 translated: "ride an animal cross-saddle".

152. This passage is equivalent in all the Arabic editions, but translated differently. Stillman, *Modern Times*, p. 225 has: "They may not wink or point to the nakedness of a Muslim". Klein-Franke, "Rechtsstatus", p. 221 has: "Sie sollen nicht auf die Geschlechtsteile eines Muslims zeigen" ("They shall not point to the genitals of a Muslim", my translation). It is possible to translate *ʿawrāt* with "genitals". It is, however, not very likely that this is what is meant here. *ʿawrāt* can also mean "weaknesses", "faults" or "defects", cf. Wehr, *Dictionary*, p. 656. Ḥibšūš translated accordingly: *ve-lo yalizu be-ʿeineihem. ve-lo yabitu be-bizayon ha-goy* ("not to wink at their eyes. And not to look at the disgrace of the non-Jews", my translation). Goitein, *The Yemenites*, p.

189, n. 88 remarks that it would be more correct to translate: *ve-lo yer'ū (le-oyev) ʿawrat Muslim* ("and not show [to the enemies] the Muslim's weak points", my translation). He mentions that this passage was taken from old contract letters, where Non-Muslims had to commit not to help the Muslim's military rivals. He further states that this obligation does not fit the actual situation in Yemen at that time (his article was first published in 1936/37). Though this kind of ruling may have been taken from old contracts, it still fits the situation in Yemen, as it could hint not only to the Muslims' military weaknesses but also to the moral behavior of individuals. Gamliel, *The Jews and the King*, p. 19 translates to Hebrew: *lo yignu ve-lo yaṣbiʿu ʿal ʿervot muslim* ("not to criticise and not to point to a Muslim's shame", my translation). In n. 8 Gamliel adds, *ka-nir'e še-ha-kavana še-lo yaṣbiʿa ha-yehudi ʿal kišalon maḥpid še-ʿasa muslim, kamohu ke-mi še-mebit be-ʿevaro* ("it appears that the meaning is that the Jew[s] should not point at a shameful failure of a Muslim, [which would be] just like somebody who would look at his genitals", my translation). This corresponds to the understanding of Muḥammad ʿAbd al-Salām Manṣūr with whom I have studied the text of Ms.Ar.120 in Ṣanʿāʾ, July 2012. Sémach, *Mission*, p. 39 has: "Cligner des yeux en apercevant la nudité d'un musulman". Parfitt, *Redemption*, p. 42 translated: "Wink when observing the nakedness of a Muslim". Schmidt, *Unknown War*, p. 106 translated: "to laugh or to make remarks at the sight of a naked Moslem".

153. Sémach, *Mission*, p. 39 has: "S'occuper de leur loi hors de leur temple". Parfitt did not translate this passage. Schmidt, *Unknown War*, p. 106 translated: "to study their books outside the synagogues".

154. The *shofar* is a (ram) horn blown on *Rosh ha-Shana* and other Jewish holy days, cf. S.J. Zevin, "Shofar", *Encyclopedia Judaica* (*EJ*[2]).

155. Goitein and Gamliel both have *al-muʿāmalāt al-karīha* ("unpleasant business" or "repulsive mutual relations") instead of *al-muʿāmalāt al-rabawīya* ("interest business") as it is in Ms.Ar.120, cf. above n. 85. This of course also has an impact on the existing translations. Stillman, *Modern Times*, p. 225 has: "They are forbidden from engaging in reprehensible relations which bring down the wrath of heaven." He adds, that the reference is to prostitution and refers to page 37 of his book (*Modern Times*), where he points out the increase of "Jewish prostitution" in Algeria, Egypt, Syria and Yemen during the late nineteenth century, when Yemen was under Ottoman Rule. As becomes clear from Ms.Ar.120, the original reference was not to prostitution but to interest business. If Stillman is right, and there were an increasing number of Jewish prostitutes, it is, however, possible that copyists were tempted to give this passage another meaning, in order to try curtailing something that might have been considered a problem by members of the Jewish community itself. Klein-Franke, "Rechtsstatus", p. 221 stays more general and translates "ungehörige Taten" ("improper deeds"). Gamliel, *The Jews and the King*, p. 20 translates: *maʿasim metuʿavim* ("terrible" or "disgusting deeds"). Ḥibšūš's translation is: *ve-isur ḥamur laʿsot ha-toʿavot ašer be-ʿavuram yamšiḥu keṣef kol ben adam* ("it is strictly forbidden to make abominations, the undertaking of which would provoke the fury of all the people", my translation). Goitein, *the Yemenites*, p. 189, n. 89 and p. 187, n. 75 remarks that the reference is to collaboration with the Ottomans against the Imām. Though this is clearly not the reference in Ms.Ar.120, it seems likely that either Ḥibšūš himself or a copyist of his translation who altered the original text (which to my knowledge does not exist anymore or has not been found yet), indeed meant to refer to collaboration with the ottomans or another kind of rebellion against the Imām. In another passage of Ḥibšūš's *eškolot merorot* the same Hebrew term (*toʿava*, English: "abomination") is used. Cf. the text of *eškolot merorot* in Goitein, *the Yemenites*, p. 187. First referring to "adultery acts" (*ne'efufot*) that shall not be practiced, reference is made to *toʿeivot* ("abominations"), which would be punished by beheading. This punishment indeed is more likely for rebellion against the Imām than for disregarding the prohibition of interest business or prostitution. The punishment of the latter I would assume to be (if at all) death by stoning and not the sword. Sémach, *Mission*, p. 40 has: "Donner l'argent à intérêt, ce qui peut amener la destruction du monde". Parfitt, *Redemption*,

p. 42 translated: "Lend money at interest (which could bring the destruction of the world)". Schmidt, *Unknown War*, p. 106 translated: "to lend money at interest, which leads to the destruction of the world". Erich Brauer, who cited the listed rules from Sémach's travel report in French, ends with "interest", and cuts out the rest of the sentence, cf. Brauer, *Ethnologie*, p. 269. The variety of this passage shows very clearly that researchers did not take into consideration any text tradition other than the one they were translating from.

156. This is so in all the versions but Sémach's, who gives a more concrete picture: "Ils doivent toujours se lever devant les musulmans et les honorer en toutes circonstances", cf. Sémach, *Mission*, p. 40. Parfitt, *Redemption*, p. 42 translated: "Jews must always get to their feet before Muslims". Schmidt, *Unknown War*, p. 106 translated: "Jews must always stand up in the presence of Moslems and show them honour and respect on all occasions". From here on Sémach does not cite the whole text of the "edict" (l'édit) he said to have cited before. He only mentions the election of Harūn b. Sālim al-Kayhūn ("Moré Aron, fils de Chalom Cohen") and points to the order not "to break the law because of the money", cf. below, n. 164.

157. Goitein's and Gamlel's editions have the plural here, and do not repeat *ḏimmī* with every name mentioned. Ḥibšūš translated with *ha-šafel* ("the humbled"), which is especially interesting in regard to the fact that he translated the word *ḏimma* with a completely different connotation. Cf. above, n. 133 and below 167. Gamliel has *bnei ha-ḥasut* ("protected people" as is common in Hebrew until today).

158. Neither Goitein, nor Gamliel added any information on the elected community members in their text editions. Stillman, *Modern Times*, p. 225 writes his name Aaron Al-Kīhūn. Klein-Franke, "Rechtsstatus", p. 221 has Ahron Hakohen. This is the only name mentioned by Sémach, *Mission*, p. 40, who refers to him as "Moré Aron, fils de Chalom Cohen" and as "grand-rabbin" in regard to the year 1905. Later in the same year, however, Yaḥyā Isḥāq ha-Levi became the Chief Rabbi of Yemen, and we can assume that al-Kaihūn was replaced by him. Tobi, Yosef, *The Jews of Yemen*, Leiden, 1999, p. 92-92 states, that communal leadership was disputed for years after the death of the Sulaimān al-Qāra in 1889, who before that was Chief Rabbi of Yemen. He does not mention Harūn b. Sālim al-Kayhūn. Also Yehuda Nini, *Yemen and Zion: The Jews of Yemen, 1800-1814*. Jerusalem, 1982, who does not mention his name. Some Members of the Yemeni communities in Israel, however, are very active in documenting their own history in the internet and in non-academic printed publications. On the website of *Nosach Teiman,* a bookshop in Bnei Brak, selling various Yemeni (prayer) books, traditional clothes, and other things from Yemen or Yemenis in Israel there is also some information about Harūn b. Sālim al-Kayhūn, that gives 1834-1841 as his lifetime. If this is right, he was by far the oldest member of the Jewish delegation, aged about 71 in 1905, whereas Imām Yaḥyā and the majority of the Jewish representatives where all in their later thirties. Here he is not mentioned as Chief Rabbies but as "one of the four Jewish representatives", cf. http://www.nosachteiman.co.il/?CategoryID=362&ArticleID=1392 (accessed on June 12th 2013).

159. Yaḥyā Sulaymān al-Qāfiḥ, or Yihye ben Solomon Kafah (1850-1932) was a scholar trained in traditional Jewish learning, but also engaged in secular studies and the Arabic and Turkish language. He was the founder of the Dor Deʿah ("generation of wisdom") movement and kept contacts with (Jewish) scholars outside of Yemen. Cf. Ratzabi, Yehuda, „Kafaḥ (Kafih), Yiḥye ben Solomon," in *Encyclopaedia Judaica*[2], ed. M. Berenbaum and F. Skolnik, Detroit (2007), vol. XI, vol. 11, p. 703. For an intriguing analysis of the dispute on the Zohar between Yaḥyā al-Qāfiḥ and Yaḥyā Isḥāq, cf. Wagner, Mark S., „Jewish Mysticism on Trial in a Muslim Court: A Fatwā on the Zohar – Yemen 1914", *Die Welt des Islams* 47,2 (2007), S. 207-231.

160. His full name was Yaḥyā Isḥāq ha-Levi, or in Arabic al-Lāwī (1867-1932). He was the chief rabbi and last Ḥaḫam Bāšī of Yemen from late 1905 until his death in 1932. Cf. Ratzabi, Yehuda, "Abyaḍ, Yiḥya ben Shalom". *Encyclopedia Judaica*[2], Vol. I, S. 346, Detroit, 2007. There is no independent entry on him in the *Encyclopedia Judaica*[2]. Stillman, *Modern Times*, p. 225 writes his name Yiḥya Isaac. Yaḥyā Isḥāq ha-Levi was the leader of the Kabalistic Jewish community that opposed the Dor Deʿah ("generation of wisdom") movement, that was lead by Yaḥyā Sulaymān al-Qāfiḥ. On this cf. for example Wagner, „Jewish Mysticism". On ha-Levi's relationship with Imām Yaḥyā cf. Aharon Gaimani, "Rabbi Yihye Yitzhak Halevi and his Relations with Imam Yahya", in *Middle Eastern Studies* 46, No. 2 (2010), p. 235-250. Sémach, *Mission*, p. 44 refers to him ("Moré Yahye Ishak Alévy") as the " nouveau rabbin ".

161. Yaḥyā Sālim al-Abyaḍ (1873-1935) was one of the leaders of the Dor Deʿah ("generation of wisdom") movement, and a learned scholar of the bible, astronomy and natural medicine. He headed the Maswari Synagoge in Ṣanʿāʾ, and as many rabbis in Yemen, earned his livelihood as a silversmith. He succeeded Yaḥyā Isḥāq as a chief rabbi of Yemen, when the latter died in 1932. Cf. Ratzabi, Yehuda, "Abyaḍ, Yiḥya ben Shalom", *Encyclopedia Judaica*, Vol. I, p. 346, Detroit, 2007. Stillman, *Modern Times*, p. 225 writes Yiḥya al-Abyaḍ. Klein-Franke, "Rechtsstatus", p. 221 has Yaḥyā al-Abyaḍ.

162. This meaning was preserved in Goitein's edition of the Arabic and Hebrew text as well as in Gamliel's copy and his translation. Stillman, *Modern Times*, p. 225 has: "It is incumbent upon those not to let them deviate from the right path", which I think is wrong as it is not "deviate" but "guide", and not *ṭarīq* ("path") but rather *ṭarīqa* ("manner") in all the versions of the Arabic text.

163. Ḥibšūš's translation is close to that. He has: *ve-lo yaṭom mi-draḫei toratam and miṣvotam* ("not to deviate from the path of their Torah and their commandments", my translation). Also Gamliel (p. 20) has: ve-*še lo yaʿavru ʿal šum davar mi-toratam* ("and they shall not violate any of the things of their Torah.") Stillman and Klein-Franke both have "to change" instead of "conflict with" or "violate".

164. The Arabic versions of the text only differ slightly. Aṭmāʿ can mean both "greed" and "ambition". Stillman, *Modern Times*, p. 226 has: "They shall not make themselves aloof from them out of greed", which I think is wrong. The *hā* of *yubāʿidūhā* certainly refers to *šarīʿatahum*, cf. above line 9 and 10 of Ms.Ar.120 transcription. One might ask what the violation of the Jewish religious law has to do with greed, and Ḥibšūš's translation of that passage does give an explanation: *ve-lo yaʿnum* [*otam = et ha-mitzvot*] *beʿad bezaʿ ha-kesef ve-yazilu ʿasuq miyad ʿoseq* ("They shall not violate them [the commandments] in favour of money profit and [in order to] save one deal after another", my translation). Today *ʿasaq* would be written with *samaḫ*, and not *sin*. Nevertheless, I think that this is the reference here. I further assume that it points to the prohibition (made by Jewish religious law) to work on Shabbat (Saturday). Being the first day after the Islamic weekend, I could imagine that there was more business on that certain day, so that some of the Jews maybe did not want to miss the opportunity. The reference to that in Imām Yaḫā's letter to the Jews is indeed likely, as the Koran also refers to the Jews' obligation not to work on Shabbat, cf. Sura 7:163, and Imām Yaḥyā Ḥamīd al-Dīn is said to have looked after its observation. Cf. Klein-Franke, "Rechtsstatus", p. 184. She translates by and large in reference to her source, the Gamliel edition. Gamliel himself translated: *ve-lo yarḥikuho ʿalayhem be-ḥemdat ha-mammon* ("they shall not distance it [the religious law] from themselves because of the desire for money", my translation). Also Sémach, *Mission*, p. 40 cites that they should not "break the law because of the money" ("torture pas la loi pour de l'argent").

165. That is: the weak among them shall not be forced to demand justice from the strong after they have been disadvantaged by the strong. This passage is not included in Ḥibšūš's Hebrew translation. Goitein's and Gamliel's edition have both *yantalif* (*infaʿala* of *t-l-a*) instead of *yantaṣif* (in the original). Referring to Goitein's edition, Stillman, *Modern Times*, p. 226 translated: "so that

the weak will not be destroyed by the strong". Gamliel, *The Jews and the King*, p. 20 has *kedei še-lo yekufaḥ he-ḥalaš* ("so that the weak will not be disadvantaged", my translation). Klein-Franke, "Rechtsstatus", p. 221, too, has "auf dass der Schwache nicht gegenüber dem Starken benachteiligt werde" ("so that the weak shall not b disadvantaged by the strong", my translation).

166. The eulogia is missing in Goitein's and Gamliel's editions.

167. Goitein adds, p. 190, n. 92 that there were some Jewish authorities who tried to keep members of the Jewish community from seeking justice in Sharia courts. Nevertheless, Jews frequently did so when a solution was not found in the Jewish court, or if Islamic law was more beneficial than the Jewish one, as for instance when it came to inheritance issues of women. Stillman, *Modern Times*, S. 226 has: "They may not prevent any of their people who wish to seek justice according to Muḥamad's religious law". I think that this direction refers to both the Jewish and Islamic authorities. The *minhum* does not refer to whom might keep them away from turning to the Sharia courts, as Stillman translated, but rather to *al-muṭālib minhum* ("whoever seeks justice") "should not be prohibited from it" (*lā yumnaʿ*), which is a passive construction. Klein-Franke, "Rechtsstatus", p. 221 has: "und niemand ihn daran hindere das religiöse Gesetz Muḥammads anzurufen" ("and nobody should keep him [the Jew seeking Islamic justice] from appealing to the law of Muḥammad". The Arabic text indeed has singular form here (*al-muṭālib minhum*), but should rather be translated as "whoever".

168. It is common in Yemen to use the plural form when speaking about oneself.

169. An *ʿāqil* is not a religious leader, but is responsible for collecting the *ǧizya* and having a look on the behavior of the community members, so that they for instance shall not sell alcohol to the Muslims, cf. Goitein, *The Yemenites*, p. 190 n. 93. Cf. also Piamenta, *Dictionary*, S. 335.

170. Ḥibšūš translated with *ha-šafel* ("the humbled"), cf. above n. 157 and below 176.

171. Stillman, *Modern Times*, p. 226, writes his name as Yiḥya Danokh. The only one, who gives any further information on Danūḫ, is Menashe Anzi, *Temurot*, p. 40f. and *Ibid*., "Haŝpaʿat ha-temurot", p. 101. He states that Yaḥyā Danūḫ was the Jewish *muḥtasib*, responsible for surveying that the Jews would close their shops during (Jewish) prayer time, and that the shopkeepers would go to the synagogue to pray. Anzi further points out that apparently Danūḫ (different from the community representatives mentioned before) was appointed by Imām Yaḥyā, and not by the Jewish community itself. This is also how Anzi explains the non-mentionng of Danūḫ in Jewish sources.

172. It remains uncertain if this refers to the governor (*ʿāmil*) of Ṣanʿā' or for instance to somebody like Luṭf b. Muḥammad al-Zubayrī, who was the judge responsible for the Jews. Gamliel emphasizes (p. 20, n. 9), that the authority of this certain man who was commanding over Ṣanʿā' was restricted to the capital only.

173. Stillman, *Modern Times*, p. 226 has: "They shall conduct themselves as required". Klein-Franke, "Rechtsstatus", p. 221 translated: "damit er [Yaḥyā Danūḫ] die Juden Ṣanāʿs wie eine Herde leite" ("so that he [Yaḥyā Danūḫ] will guide them like a herd", my translation). The passage is not easy, but in my view clearly refers to the observance of the orders.

174. That is the place designated for them in society. *Nazala* can mean various things, cf. Wehr, *Dictionary*, p. 956ff, hence also the translations differ. Stillman, *Modern Times*, p. 22 has: "They shall live in their homes". Though *manzil* can also refer to a "house", the root *nazala* is used twice here, and I guess one should hence keep the meaning of "to get down". Ḥibšūš's Hebrew translation is as ambiguous as the Arabic original: *ve-yošivam be-mošavotehem* ("he shall put them down to their places" or "should make them settle in their settlements", my translations). Gamliel is more decisive, and translates: *ve-yoridam el-mekomam* ("and to put them down to their places", my translation). He adds (p. 20, n. 10) that this refers to their humbled (social) status (*maʿmad ha-šafel*). Klein-Franke, "Rechtsstatus", p. 221 did not refer to this passage. The reference

of *manāzilihim* to the Jews' social status corresponds to the understanding of Muḥammad ʿAbd al-Sallām Manṣūr with whom I studied the text in July 2012.

175. Ḥibšūš translates with *patšegen* (also: *paršegen*) which comes from the Persian and means "copy", "repetition" or "abstract", cf. Marcus Jastrow, *A Dictionary of the Targumim, The Talmud Babli and Yerushalmi, and the Midrashic Literature*, New York, 1996, p. 1256.

176. It is *al-nabī* ("the prophet") in Goitein's and Gamliel's editions, cf. above n. 117. This is one of the only two passages of Ḥibšūš's Hebrew translation (as edited by Goitein) on which Amram Korach made corrections (for the other one cf. above, n. 58). He remarks that it should be: *taḥat ḥasut ha-navi šaliḥ adonay ve-ḥasuteynu* ("under the protection of the prophet, messenger of God, and our protection", my translation), cf. Korach, *Saʿarat Teman*, p. 153. Indeed, Hibšūš's translation does not correspond literally with any of the Arabic versions of this passage, cf. above lines 24-26 (upside down passage) of Ms.Ar.120. The Arabic text in Goitein's and Gamliel's editions deviates from Ms.Ar.120, which might have also led to this shortened translation. Ḥibšūš translation in Goitein (p. 189) has: *taḥat ṣel ha-meleḥ šaliaḥ adonay* ("under the shade of the king, messenger of God"). Goitein too, wonders about this translation, and adds that both of the manuscripts he saw indeed have the same text. He suggests the following text: *ve-taḥat ṣel ha-meleḤ kol mi še-hu taḥat ṣel šaliḥ ha-šem* ("everybody is under the shade of the king who is under the shade of the messenger of God"). Ḥibšūš's translation (as preserved in Goitein's edition) of *ḏimma* with *ṣel* is interesting. I suggest that he conceived of this "shade" as something positive and protecting. This corresponds to the word's connotation in the bible too, the language of which is often closer to Ḥibšūš's style than it is to modern Hebrew.

177. The eulogia is missing in Goitein's and Gamliel's editions.

178. Goitein's and Gamliel's editions have *ḏimmā* instead of *waṭʿā*, which explains the translations. Stillman, *Modern Times*, p. 226 has: "all who are under the Prophet's pact of protection and under ours". Accordingly, also Klein-Franke, "Rechtsstatus", p. 221 has: "der unter dem Schutzbündnis des Propheten und dem unseren steht" ("who is under the prophet's pact of protection and ours", my translation). Also Gamliel translated accordingly: *kol mi-še taḥat ḥasut ha-navi, taḥat ḥasutenu* ("everybody who is under the protection of the prophet, is under our protection", my translation). In fact the reference in Ms.Ar.120 is different from the text's copies, saying: "this writing applies for those subjects to our power who are *ḏimmīs*". That is, the rules given in Imām Yaḥyā's letter apply neither to Muslim subjects nor to non-subject foreigners who came to visit Yemen for a terminally finite period and are protected by *amān*. Though not surprising, it is still interesting to note that *waṭʾā* does not have a nation state connotation, as for instance *dawla* ("state") or *mamlaka* ("kingdom") would have. This fits the Zaydī idea of *imāma*, the power concept of which is not restricted to a certain country, but rather is addressed to the whole Muslim community (*umma*). For changes to this concept during Imām Yaḥyā's reign and before, cf. Bernard Haykel, *Revival and Reform: The Legacy od Muḥammad al-Shawkānī*, Cambridge, 2003, p. 17 and 205-212.

179. Gamliel (p. 19) has the Islamic date 25. Rabīʿ al-awwal 1324 in his Arabic copy. In his Hebrew translation (p. 20) he gives the Jewish date 25. Iyyar 5665 as well as the Christian date 1. 6. 1905. Interestingly, the given Jewish and Christian dates correspond to the date given in Ms.Ar.120. Gamliel's Islamic date, however, corresponds to May 19th, 1906, which is one year after the original letter was dated. Cf. the date conversion calculator of the University of Zurich (www.oriol.uzh.ch/static/hegira.html). Referring to Gamliel's edition, Klein-Franke, "Rechststatus", p. 221 only gives the Islamic date of Gamliel's Arabic copy, and does not comment on its deviation from his translation. As to Goitein's edition, the transcription of the Arabic text is not dated at all. There is a date given, however, in Ḥibšūš's Hebrew translation (as preserved in Goitein's edition). Here it has the Islamic date 28. Rabīʿ al-awwal 1324 as well as the Seleucid date, used by some Yemenis until today, which is 27. Iyyar 2217. These two dates (the Islamic and Seleucid) correspond to each other (date calculator: www.nabkal.de), and refer to May 9th 1906 of

the Christian calendar, which in turn corresponds to the Islamic date given in Gamliel’s Arabic transcription of the text, but not to Ms.Ar.120. I assume that this wrong date arose from a mistake in the copies of Ḥibšūš’s *eškolot merorot* that were used by Gamliel and Goitein. Goitein does not comment on the date. Referring to his edition, Stillman, *Modern Times*, p. 225 gives 1905, which does not correspond to his source, but to the date of Ms.Ar.120 as well as to Yemeni historiography. Research literature also refers to several dates, including 1905, 1906 (Schmidt, *Unknown War*, p. 106) and 1910 (Parfitt, *Redemption*, p. 41).

AUTHOR

KERSTIN HÜNEFELD

Freie Universität Berlin